THE

CIRCULAR ORDERS

PASSED BY

THE NIZAMUT ADAWLUT,

FOR THE

LOWER AND WESTERN PROVINCES,

AND COMMUNICATED

TO THE CRIMINAL AUTHORITIES

IN THE

BENGAL AND AGRA PROVINCES

BY THE REGISTERS OF THOSE COURTS,

FROM

1796 TO 1844,

INCLUSIVE

WITH NOTES AND APPENDIX.

COMPILED BY

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BENGAL CIVIL SERVICE.

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PREFACE.

The first and second volumes of the Quarto Edition of the Nizamut Circular Orders published by authority, having been some time out of print, and even a second hand copy difficult to be procured, and then only at an exorbitant charge has induced the compiler to reprint the Circulars from the year 1796 down to the end of 1844, omitting those that are rescinded, superseded, or which have exclusive reference to the preparation of periodical statements; more especially as the latter are now issued by the Court of Nizamut Adawlut in a separate series, and do not in any way concern the general reader, and the former (if again printed,) would have only confused the student who wished to become master of the Circular Orders, or any person whose business with the Courts obliged him to refer to the Order Book.

The work now offered to the Public it may safely, be asserted, contains every order *now in force*, and some perhaps that are obsolete, but which the compiler thought it better to insert in case of mistakes, and because they had never been declared to be rescinded or superseded. The work consists of three parts, each part containing the Circulars in one of the Volumes published by authority. Part I. corresponding with Volume I.—Part II. with Volume II., and Part III. with Volume III. down to the end of 1844. The numbers of the Circulars affixed to the first Edition have been retained, except a few at the end of Part III., or from number 182 to 193, so in the event of any one wishing to refer to a Circular Order cited by the Court, with a specification of the Volume, the number will be immediately found in the Part corresponding with the Volume quoted.

The notes are many of them the same as given in the first Edition, and the new notes have been drawn up on the same principle, to facilitate a reference to orders subsequently issued modifying or amending the Circular to which the note is appended.

The Appendix contains two constructions of the Nizamut Adawlut which have not been printed before, the orders of the Government of Bengal as regards Jails and their inmates, and all the translations of Forms, Engagements, &c. which in the first Edition were given in the body of the work, or were appended to the Circular prescribing their use and adoption, and the compiler trusts, that their being thus placed together in an Appendix, will be found an improvement in the arrangement of the work.

The Index has been prepared chiefly from the marginal abstracts to the Circulars in the first Edition, or the spirit of the abstract has been preserved and given; and as the superintendence and control of Jails, Insane Hospitals, and their inmates, has been entirely assumed by the Governments of Bengal and Agra respectively, under Act XVIII of 1844, a separate Index for the Circular Orders which refer to Jails and Insane Hospitals has been given—the "General Index" referring to all other matters.

The compiler has only to add that though the work has been undertaken at his own risk and cost, it is not published with a view to individual profit; any that may be derived from the sale of the work it is intended to apply for the benefit of an English School, first established (much to his credit) by a young native by name Degumber Shah at this place, and at present supported by voluntary subscriptions.

Pubna, 29th of March, 1846.



CIRCULAR ORDERS,

PASSED BY

THE NIZAMUT ADAWLUT,

AND COMMUNICATED TO THE

Courts of Circuit and Zillah and City Magistrates,

BY THE

REGISTER OF THAT COURT.

PART I.

No. 2.

To the Courts of Circuit.

March 24, 1796.

THE Court of Nizamut Adawlut having had before them numerous cases in which several charges against prisoners, preferred by separate Prosecutors, have been blended and proceeded upon in one trial; and being of opinion that the trials of prisoners upon distinct charges, especially where the prosecutors are also distinct, should, as far as possible, be kept separate, as well for the sake of perspicuity, as to avoid an unnecessary occupation of the time of the Courts of Circuit, and their own, in cases where a prisoner may have been convicted of an offence rendering him liable to capital punishment, they have directed me to communicate this remark to you for your general observance in future trials, and to desire that you will circulate it to the several magistrates within your division for their guidance in future commitments.

No. 3.

To the Courts of Circuit.

April 6,1796.

THE Court of Nizamut Adawlut having ascertained from their law officers, that the employment of all convicts, sentenced to

imprisonment, in the repair of the public roads, or in other similar public works, is consistent with the Mahomedan law, and being of opinion that such employment must be salutary to the prisoners, they have thought proper to resolve, that all prisoners of the description above mentioned shall be so employed with an exception to any person who may be incapable of bodily labour from age, sickness, or other infirmity; and accordingly desire you will issue the necessary orders to the several magistrates within your division.*

No. 4.

To the Several Magistrates.

April 27, 1796.

It having been represented to the Court of Nizamut Adawlut, that a practice has prevailed, of purchasing young slaves for the purpose of making eunuchs of them, to be afterwards again disposed of by sale, the court have thought it proper to ascertain from their law officers whether this inhuman practice be duly punishable by the Mahomedan law; and also whether, in any case, it would entitle the party injured to emancipation from slavery.

2. By the answers of the law officers to the reference made to them on these heads, it appears, that the right of mastership over his slave, is not forfeited by making such slave an eunuch, either under the Mussulman or Hindoo law; but that the castration of any person, whether a slave or otherwise, is held criminal and punishable by the Mahomedan law, particularly if the offender be proved to have made it his professional or frequent practice; nor will the consent of the party be allowed to obviate the punishment; which, in all cases, is left to the discretion of the governor of the country, or his representative, and to be proportioned to the magnitude of the offence.

3. With a view to discourage and prevent, as much as possible, the cruel and detestable practice above adverted to, the Court desire you will make public the foregoing provision of the Mahomedan law against it, by a circular notification to the police officers under your jurisdiction; and that you will enjoin them to apprehend all persons charged with the crime in question, in like manner as they are directed to apprehend persons charged with other crimes of a heinous nature; that, if there appear sufficient grounds for the same, they may be brought to trial before the court of circuit, and to exemplary punishment as the law directs.

* See Nos. 8, 44, also Regulation II. 1834.

No. 5.

To the Courts of Circuit.

May 5, 1796.

The Court of Nizamut Adawlut, adverting to the orders which frequently form part of their sentence for the restoration of stolen property found on the prisoners convicted; and being of opinion that the execution of such orders should be certified by the zillah and city magistrates, either in the return endorsed by them on the warrant of the court of circuit, or in a subsequent return to be made as soon as the execution of the order may admit; you are accordingly directed to require the magistrates of your division to certify to you, in the manner above stated, the execution of all orders of the foregoing description, and are to be careful that such certificates are preserved among the records of your court.

No. 7.

To the Several Magistrates.

August 3, 1796.

The Court of Nizamut Adawlut have directed me to desire, that whenever you may in future send down convicts for transportation to the jail of the 24-Pergunnahs, you will transmit with them to the magistrate of the said zillah, an accurate list, containing the names of the several prisoners, the dates of their sentences respectively, and the period for which they are ordered to be transported, according to the form herewith furnished for your guidance.*

List of Prisoners sentenced by the Nizamut Adawlut to be transported.

Names of Prisoners, and of their Fathers.	*Crime.*	*Date of Sentence.*	*Period of Transportation.*
Teencowry, son of Punchoo,	Murder.	Sept. 1, 1796.	For life.
Gungaram, son of Dirum-pershaud.	Gang robbery	Oct. 1, 1796.	For 14 years.

No. 8.

To the Courts of Circuit.

August 10, 1796.

The Nizamut Adawlut being of opinion, that cases may occur, though but seldom, in which it would not be proper to enforce their circular order of the 6th of April last, for employing all

* See Nos. 25, 88, 95, 97, 106 and No. 20, Part III.

convicts sentenced to imprisonment in the repairs of the public roads or other similar public works, with an exception to such as are incapable of bodily labour from age, sickness, or other infirmity, have directed me to desire, that you will instruct the several magistrates within your division, in case any convict, now, or hereafter sentenced to imprisonment, should from his rank and situation of life or otherwise, appear to them an improper object to be employed on the public roads, or other similar works, agreeably to the said order, to report the same, with the circumstances of the case, for the special orders of this court, and in the mean time to suspend the execution of the former order.*

No. 9.

To the Courts of Circuit.

November 30, 1796.

A Question having been submitted to the Nizamut Adawlut, whether a prisoner committed by the zillah magistrates, after the arrival of the court of circuit at his station, is to be tried at the session of the court of circuit then pending, or at the ensuing session, the court direct me to acquaint you, for your guidance in cases of this nature, that they are of opinion, provided the witnesses are in attendance, and the trial is in every respect ready to be brought before the court of circuit, it should be immediately proceeded upon, in humanity to the prisoner, who must otherwise be kept in confinement till the ensuing jail delivery.†

No. 11.

To the Courts of Circuit.

December 28, 1796.

Instances having occurred in trials referred to the Nizamut Adawlut, in which the confessions of the prisoners have been stated to have been taken in the fouzdarec cutcherry without any specification of the person before whom they have been taken, the Court desire that you will instruct the magistrates of your division to certify upon the record of all examinations of parties, and depositions of witnesses, before whom such examinations and depositions are taken; and that such certificate be invariably included in the copy of their proceedings transmitted by you on trials referred to this Court.‡

* See No. 44, also Regulation II. 1834.

† See Nos. 49, 77. *This circular has been retained as it may still apply to Judges holding Quarterly Sessions.*

‡ See No. 23 also. No. 54 Part II. paragraph 20 and No. 220 Ibid, paragraphs 5 and 6.

No. 16.

To the Courts of Circuit.

December 7, 1797.

The Court, adverting to Section 7, of Regulation IV. 1797, and being of opinion that the proceedings of the courts of circuit should notice the admonition to witnesses directed in the 6th clause of that section, in like manner as they notice that witnesses have been sworn, I am directed to desire that in all future trials held before you, you will record on your proceedings that the admonition in question has been repeated to the witnesses as directed in the above regulation.

I am also directed to desire, that you will remind the witnesses examined before you of the above admonition, particularly of that part of it which enjoins them carefully to distinguish what they personally know, from what they may have heard from others, whenever in the course of their examination, there may appear occasion for it.

No. 17.

To the Courts of Circuit.

April 19, 1798.

The Court of Nizamut Adawlut being of opinion, that in trials of murder, the inquest on the body of the deceased, when taken as prescribed in Section 9, of Regulation IV. 1797, is of material use, both in ascertaining the fact, and in weighing the credibility of witnesses, they desire, that on all references of such trials to them, you will make it an invariable rule to transmit with your proceedings a transmission of the report made to the magistrate of the inquest held upon the body of the deceased; or, if no inquest shall have been held, that you will notice the same in your letter accompanying the trial, with the cause of omission; calling upon the magistrate, if necessary, for an explanation thereof.

No. 18.

To the Zillah and City Magistrates.

November 14, 1798.

The Court of Nizamut Adawlut, considering the frequent escape of convicts whilst employed on the roads, or in other places out of jail, under the custody of a single sepoy or burkundaz, have thought it proper to prohibit the employment of any convicts, out of jail, under the custody of a single guard, and direct that the convicts under your charge be on all occasions employed, as far as possible, collectively, under the guard of as many sepoys and burkundazes as can be spared from other duties for the purpose.

No. 19.

To the Courts of Circuit.

February 28, 1799.

THE Court of Nizamut Adawlut having observed in several trials referred to them, that the prisoner's defence, instead of being taken after the evidence for the prosecution, conformably to Section 47, of Regulation IX. 1793, has been taken immediately after the charge of the prosecutor, I am directed to require your strict observance of the order of proceeding pointed out in the above regulation, viz. The charge against the prisoner; his confession, or denial; the evidence on the part of the prosecutor; the prisoner's defence; and any evidence he may have to adduce in support thereof.*

No. 22.

To the Courts of Circuit.

April 25, 1800.

THE Court of Nizamut Adawlut having observed, that the original Persian transcripts of trials received from the several courts, under Regulation X. of 1799, and more particularly the proceedings of the magistrates annexed to those trials, are often very carelessly and inaccurately made: and as this is a matter of essential importance, I am directed to desire, that you will cause your native officers to be very attentive to prevent the occurrence of similar causes of complaint in future, and that you will likewise instruct the magistrates in your division to take care that their proceedings shall henceforward be fairly and correctly copied.†

No. 23.

To the Courts of Circuit.

July 4, 1800.

THE Court of Nizamut Adawlut observing that in many trials which come before them, where the only proofs that can be adduced against the prisoners are their own confessions before the magistrate, these confessions are attested by no more than two witnesses, and that in the event of the death of any one of those witnesses before the trial, the prisoner must be acquitted, I am directed to desire that you will issue circular orders to the several zillah and city magistrates, requiring them to cause all confessions of this description, before them in future, to be attested generally by four, or at least by three creditable and respectable witnesses who can read and write.

* See No 193, also No. 54 Part II. paragraph 8 and No. 129 Ibid.
† See No 27 paragraph 4.

No. 24.

To the Courts of Circuit.

January 6, 1801.

I AM directed by the Nizamut Adawlut to acquaint you, that the most noble the Governor General in Council has been pleased to resolve, that the magistrates of the several zillah and city courts shall be directed to instruct the police darogahs under them, to secure and send to the sudder station of each district all insane persons within the limits of their respective thannahs, from whose insanity they may have reason to apprehend any fatal effects, unless their friends shall enter into engagements to take such care of them so as to prevent the possibility of their doing any mischief, and to cause them to be confined in a separate ward, with proper attendance, in the jails; charging in a contingent bill any extra expense incurred in consequence.

The Court desire, that you will accordingly issue the necessary orders to this effect, to the several magistrates within the limits of your divisions*.

No. 25.

To the Zillah and City Magistrates.

April 10, 1801.

THE Court of Nizamut Adawlut being of opinion, that an accurate description of the persons of convicts sentenced to transportation will be of material use in identifying such convicts, they desire you will furnish such description of all convicts who may be hereafter sent by you to the jail of the 24-Pergunnahs for the purpose of being transported; inserting the same in an additional column, in the list prescribed by the Court's circular order of the 3d August 1795, viz. in a second column, to follow the names of the prisoners required to be inserted in the first column; and to be entitled "description of prisoners."

2. The Court further rely on your attention to see that such description be in all cases as full and accurate as possible.†

No. 26.

To the Courts of Circuit.

June 29, 1801.

AN instance having occurred of a prisoner escaping from the jail in which he was confined, by feigning himself dead,

* Partly enacted in Clause 6, Sec. 30, Regulation 20, 1817. But see Nos. 165 and 307 of this Part.
† See No. 20, Part III.

the Nizamut Adwalut, in order to prevent the success of future similar attempts, think proper to desire, that you will instruct the several magistrates within your division, not to allow the removal of the bodies of prisoners who may die in jail, until an inquest shall be held on them by the native surgeon of the station, and such other persons as the magistrate shall appoint for the purpose, and the result of such inquest regularly reported.*

No. 27.

To the Courts of Circuit.

September 11, 1801.

SEVERAL instances having occurred of very considerable delay in the transmission of trials referrible to the Nizamut Adawlut, whereby the objects proposed by Regulation X. 1799, viz. to prevent the lengthened confinement of prisoners who may be ultimately acquitted by the Nizamut Adawlut, and to expedite the punishment of those who may be convicted, have been in a material degree frustrated; the Court, with a view to the more certain and actual attainment of the ends proposed by the above regulation, desire your strict observance of the following instructions in addition thereto.

2. The counterpart record of proceedings held before the court of circuit, required by Section 2, of Regulation X. 1799, to be transmitted as soon as possible after the close of any trial referrible to the Nizamut Adawlut, and with no further delay than may be necessary to transcribe the proceedings held thereupon, is to be invariably transmitted from the station where the trial may have been held, before the judge of circuit proceeds to any other station; unless from the number of referrible trials, his detention, whilst the record is transcribing, would be such as materially to impede the circuit; in which case he is to report the same to the Nizamut Adawlut, with a list of the referrible trials; and information when the same will be transmitted respectively.†

3. To enable the judges of circuit to prepare the counterpart record of trials referrible to the Nizamut Adawlut, with the least possible delay, the several zillah and city magistrates will be instructed to give the assistance of their native officers in transcribing the original proceedings; and the judges of circuit

* See No. 204.

† The Courts of Circuit have been abolished, but as some of the Sessions Judges hold Quarterly Sessions at the stations of joint Magistrates, this rule may apply to them.

are authorized to employ any additional mohrirs they may find necessary, and be able to procure, for the same purpose, transmitting a contingent bill on this account, for the sanction of Government.

4. The proceedings and papers received from the magistrates, required by the regulation above mentioned to be transmitted to the Nizamut Adawlut with trials referrible to that Court, are to be transmitted as received from the magistrates, without making copies of them; and such papers, after the Nizamut Adawlut shall have passed sentence on the trial referred with them, will be returned to the judge of Circuit.*

By these means the Court trust that the trials referrible to them will be always transmitted in future, within the period of ten days fixed by Section 68, Regulation IX. 1793, as well as without any impediment to the business of the Circuit.—If any other measures should appear to you advisable for either of these purposes, the Court desire you will communicate them.

No. 28.

To Zillah and City Magistrates.

September 11, 1801.

The Courts of Circuit having been instructed to transmit their proceedings on trials referrible to the Nizamut Adwalut, from the station where such trials may be held, before they proceed to any other station, (except in particular cases,) the Court desire you will, on the application of the Judge of Circuit at your station, afford, as far as practicable, the assistance of your native officers in transcribing their proceedings.

No. 30.

To the Courts of Circuit.

June 21, 1803.

Several instances having occurred of convicts making their escape, whilst employed in the gardens of gentlemen and on other private works, and the Court of Nizamut Adawlut being of opinion that their being so employed, not only facilitates escape, but militates, in a great degree, with the object of judicial imprisonment, by lessening the stigma, and example of it; the Court desire you will inform the several magistrates within your division, that they are prohibited from employing the convicts under their charge upon any private works whatever; and are required, on all occasions, to employ them upon the public roads or other public works, under sufficient guard for their safe custody, as directed by the Court's circular order of the 14th November 1798.

* See No. 135, Part II. Paragraph 5.

No. 31.

To the Courts of Circuit.

July 19, 1803.

It having been represented to the Court of Nizamut Adwalut, that during the rainy season, when the convicts cannot be employed at a distance from the jails, it may be in some instance impracticable to employ the whole of them upon the public roads, or other public works, as directed by the Court's circular order of the 21st ultimo, and that in such instances it would be expedient to employ a part of the convicts on works combining public utility with private convenience, which may be undertaken by individuals; you are desired to notify to the several magistrates within your divisions, that they are to report to your court whenever it may not be in their power to employ the whole of the convicts under their charge, as directed by the circular order of the 21st ultimo; stating at the same time, any work or works undertaken, or proposed to be undertaken, by individuals, and promising to be productive of public as well as private benefit, on which a part of the convicts might be employed, with security, as prescribed in the Court's circular order of the 14th November 1798; and on consideration of such reports, you are authorized to direct the employment of the convicts, in the instances referred to, as may appear to you most advisable, and consistent with the objects of the circular order above mentioned.

2. The Court, at the same time, are of opinion, that in most places, if the convicts be employed upon the public roads, and other requisite public works at a distance from the jails, during the dry season, it cannot be difficult to find similar work for them near the jails during the rainy seasons; and whenever it may be practicable, the Court direct that the whole of the convicts be employed upon such work, in perference to any work of a private nature, for the reason stated in the circular order of the 21st ultimo.

No. 32.

To the Courts of Circuit.

March 13, 1804.

The Court of Nizamut Adawlut deem it expedient to direct, that in all cases of capital punishment, you will transmit to the magistrates, together with your warrants for the execution of the prisoners, copies of the sentences of this Court.

No. 34.

To the Courts of Circuit.

June 19, 1804.

I AM directed to inform you, that it is the intention of the Nizamut Adawlut, that all warrants should be returned to the court by which they are issued, after the complete execution of the sentence contained in them, with an endorsement certifying the manner in which the sentence has been carried into execution.

In the case of a sentence both for corporal punishment* and imprisonment, the carrying into execution of the former part of the sentence should be endorsed on the warrant at the time of inflicting the punishment; but as the warrant in this case cannot be considered to be completely executed until the prisoner has undergone the period of imprisonment adjudged against him, the magistrate should retain the warrant until the expiration of the term of imprisonment, or return it duly endorsed, should the prisoner die during the course of the term; or, in the event of his being removed to another zillah, the warrant should be transmitted to the magistrate of the zillah to whom the prisoner may be sent, with information that he is to return it duly endorsed to the court of circuit on the expiration of the sentence or death of the prisoner.

The Court accordingly desire, that you will communicate the above remarks to the several magistrates within your division for their information and guidance.

No. 35.

To the Courts of Circuit.

August 7, 1804.

A DOUBT having arisen whether it be meant by Section 22, Regulation XXII. 1793, and Section 17, Regulation XX. 1795, that criminal charges preferred under these sections against officers of police, should be received and proceeded upon by the Courts of Circuit in the first instance, or whether they should be preferred to the magistrates, and the parties accused be committed or held to bail by them for trial before the Courts of Circuit; I am directed by the Nizamut Adawlut to inform you, that they are of opinion, it was meant by the regulations and sections in question, to give an option, in the cases therein mentioned, either of a civil action in the Dewanny Adawlut, or of a criminal prosecution before the Court of Circuit; but that it was not intended by those sections to except any complaints brought under them from the regular course of procedure in other cases.

* Only Magistrates can sentence to corporal punishment, under Act III. of 1844.

I am further directed to notice to you, that the construction of the regulations referred to, is confirmed by Section 21, Regulation XXXV. 1803, for the ceded provinces.*

No. 40.

To the Courts of Circuit.

January 4, 1805.

An instance having occurred wherein several respectable persons charged with a bailable offence, were committed to prison by the magistrate for trial before the Court of Circuit, and confined in fetters; and it having been stated to the Nizamut Adawlut, that it is a prevalent practice with many of the magistrates to confine in fetters all persons ordered to be tried by the Courts of Circuit, and not admitted to bail, or unable to give the bail required from them, whatever may be their situation in life or the nature of the offence charged against them, the Court desire it to be notified to the several magistrates, that such practice, with respect to persons charged with offences not of a heinous nature, or who might be committed to prison from inability to find sufficient bail, being unnecesary to secure their appearance at the time of trial, (the only object of personal custody in such cases,) and it being the evident intention of the regulations that no prisoner, before he is brought to trial, should suffer more corporal restraint or personal ignominy than may be unavoidable for his safe custody, and appearance at the time of trial, they are required to be careful in observing this principle; and consequently are not to confine in fetters any person for trial before the Court of Circuit, who may be charged with a bailable offence, and committed to prison from inability to find bail; or who, though not admitted to bail, may not have been charged with an heinous offence, such as from the nature and circumstances of the case, considered with the prisoner's condition of life, may appear to render the use of irons indispensably requisite for his secure custody.†

No. 41.

To the Courts of Circuit.

February 1, 1806.

I am directed by the Court of Nizamut Adawlut to transmit to you the accompanying copy of a letter from the Secretary to Government in the Judicial Department, under date the 23d ultimo, and extracts of its enclosures; and to desire that you will circulate copies of them for the information and guidance of the

* See No. 67

† See Nos. 206, 210 and No. 32, Part II.

several magistrates under your authority, who have establishments of guard boats.

(COPY.)

To the Register of the Nizamut Adawlut, January 23, 1806.

I am directed to desire you will lay before the Nizamut Adawlut, the accompanying extracts from the proceedings of Government of the 4th July last, and of the present date, respecting the establishment of guard boats required by the magistrate of Mymensing, together with a copy of an order which has been issued to the Court of Circuit at Dacca; and acquaint the Nizamut Adawlut, that the Honorable the Vice-President in Council requests that they will issue the necessary orders to the magistrates who have establishments of guard boats, for furnishing the periodical report* suggested by the Provincial Court at Dacca in the 2d and 3d paragraphs of their letter now transmitted to the Nizamut Adawlut.

EXTRACT.

PAR. 2. We take this opportunity of suggesting the propriety of the magistrates who have establishments of guard boats under them, being generally required to report from time to time what services have been rendered by the boats employed by them, that whenever it appears they are useless at any station, they be reduced or transferred to some other.

3. The reports to be required on these occasions might state, respect being had to the limits within which each guard boat is appointed to ply, whether they had been instrumental in apprehending dacoits; whether owing to their vigilance the crime had in any instances been prevented; and generally whether robbery in the neighbourhood of their stations had comparatively ceased or diminished, from the dread of pursuit excited in the minds of the evil-disposed, by their presence and known activity. These reports might accompany those which the magistrates are required to lay before the Court of Circuit at each session, and to transmit annually to the Court of Nizamut Adawlut of the number of crimes committed.

No. 42.

To the Barrilly† Court of Circuit.

April 9, 1806.

I AM directed by the Court of Nizamut Adawlut to transmit to you the enclosed proclamation, with translations of it in the Persian

* This report should be made to the superintendant of Police.

† Similar instructions were issued on the same date through the Benares Court to the magistrates of Allahabad, Bundlecund, and Goruckpore.

and Hindoostanee languages, and to desire that you will circulate it to the several magistrates under your authority, with directions to send copies of the translations to the several thannahs in their zillahs, and to make it as public as possible, throughout their jurisdictions.

PROCLAMATION.

Whereas several instances have occurred, since the annexation of the ceded and conquered provinces to the dominions of the Honorable Company, in which persons have been convicted of putting their children to death, from an impulse of passion, with the intention of revenging themselves for a real or supposed insult, or injury, offered to them by another person; under an erroneous idea, that the guilt of shedding the blood of the innocent victim, would lie on the head of the person offering such insult, or injury; And whereas such crime, under the provisions of Regulation VIII. 1803, is punishable with death; and it is indispensably necessary for the ends of justice, and for the preservation of the lives of the innocent, that so flagrant and cruel an offence should not be committed in any part of the Company's dominions without incurring the most severe and exemplary punishment; notice is therefore hereby given and proclaimed, for the information of all the inhabitants of the ceded and conquered provinces, to which the laws and regulations of the British Government have been extended; that any person who shall be capitally convicted of putting to death his or her child or children, or of putting to death any other child or person, in consequence of a real or supposed insult, or injury, will be invariably punished with death, according to the provisions of the laws and regulations in the case.*

No. 43.

To the Courts of Circuit.

November 8, 1806.

The Nizamut Adawlut being of opinion, that the magistrates should occasionally visit the thannahs in their respective jurisdictions, when it may appear necessary or expedient, and Government having concurred in this opinion, I am directed by the Court of Nizamut Adawlut, under instructions from Government, to direct, that you will instruct the several magistrates under your authority, to apply to the Nizamut Adawlut for permission to make a circuit of, or visit particular parts of their districts, whenever the state of civil business before them will admit of it, and it may appear necessary or advisable.†

* See No. 55. † See Nos. 94, 97, Part II. and No. 10, Part III.

No. 44.

To the Courts of Circuit.

March 28, 1807.

A DOUBT having been expressed as to the expediency of a judge of Circuit directing in his warrant the exemption from labour of any persons sentenced to imprisonment, I am directed to inform you, that the Court of Nizamut Adawlut, adverting to their circular orders to the magistrates issued through the Courts of Circuit, under dates the 6th April and 10th August 1806, are not aware of any objection to judges of Circuit inserting an exemption from hard labour in the warrants issued by them to the magistrate, in cases wherein they may, on consideration of the rank or situation in life of any person sentenced to imprisonment, consider him to be an improper subject of hard labour.*

No. 45.

To the Courts of Circuit.

April 4, 1807.

THE Court of Nizamut Adawlut adverting to Section 21 Regulation IX. 1793,(extended to Benares by Regulation XVI. 1795, and with which Section 21, Regulation VI. 1803, for the ceded and conquered provinces corresponds,) whereby persons sentenced to imprisonment by the magistrates, are directed to be confined separate from prisoners convicted of crimes before the Courts of Circuit; and being of opinion, that a similar distinction should be observed in the employment of the two descriptions of prisoners, when at work on the public roads or other public works, the Court desire that you will instruct the several magistrates in your division accordingly.

No. 48.

To the Courts of Circuit.

April 2, 1808.

I AM directed by the Court of Nizamut Adawlut to transmit to you the accompanying extract of a letter from the Secretary to Government in the Judicial department, dated the 1st instant; and to desire, that the Judges of Circuit in making the report prescribed by Section 12† Regulation IV. 1797, on the conclusion

* See Regulation II. 1834. † Ceded provinces, Section 37, Regulation VII. 1803.

of each of the half-yearly jail deliveries, will report the situation of any Prisoners who may be in confinement in any of the zillah or city jails, or otherwise in restraint, under the direct orders of Government; noticing at the same time whether they may be charged with crimes against the state, or confined on any other ground.

2. The Court desire, that you will direct the several magistrates to ascertain what buildings of the nature described in the extract from Mr. Secretary Dowdeswell's letter, are now in the occupation of individuals, within their respective jurisdictions. The magistrates are to conduct these inquiries, in a manner which may not attract the attention of the community. You will direct them at the same time to prevent the future occupation by individuals of any tomb or building, constructed for sacred or religious purposes.

Extract from a Letter from the Secretary to Government in the Judicial Department, under date the 1st of April, 1808.

The Governor General in Council entirely concurs in the opinion expressed by the Nizamut Adawlut, that as Government for reasons of state, has reserved to itself the power of ordering the confinement of persons, when the exigency of the case may appear to require it, the judges of circuit would not be warranted in directing the ordinary procedure to be observed with respect to such persons. His Lordship in Council is at the same time of opinion, that not only the judges of circuit in the divison of Benares, but likewise the judges of circuit generally, should be directed to draw the attention of Government periodically to the situation of prisoners of that description, that such orders as may appear to the Governor General in Council to be proper, may from time to time be passed respecting them. The Nizamut Adawlut is accordingly requested to issue the necessary orders upon this point to the several courts of circuit.

8. The Governor General in Council desires that the magistrates may be directed to submit to Government any information which they possess, or may be able to obtain, (without making it a topic of public discussion, or attracting the attention of the community,) respecting the occupation of tombs, temples, or mosques, by individuals. Although buildings of that description may, from necessity, have been occupied for the public service during the late hostilities and disturbances in the Upper Provinces, and since continued in the possession of individuals, the Governor General in Council concludes, that the magistrates must be sensible, that it is their duty to prevent any persons at present from taking possession of such edifices.

No. 49.

To the Courts of Circuit.

April 13, 1808.

I AM directed by the Court of Nizamut Adawlut to desire, that the several judges of circuit for the division, on completing the sessions of jail delivery, will in future admit and try any commitments which may be made during their residence at each zillah; and that they will uniformly observe this practice, except in cases where any material delay would occur in procuring the attendance of witnesses, or in other preparations for the trial.*

No. 50.

To the Courts of Circuit.

April 19, 1809.

I AM directed by the Court of Nizamut Adawlut to transmit to you the accompanying extract from the proceedings of the Court of this date, containing certain resolutions passed by them on a trial for an affray, referred by the late second Judge of the Moorshedabad Court of Circuit. The Court desire, that you will communicate copies of the enclosed resolutions to the several magistrates within your division, for their information and guidance.†

Extract from the Proceedings of the Nizamut Adawlut, on the 19*th April,* 1809.

The magistrate further appears to have made no inquiry relating to the previous possession of the contested land, a step which generally throws light on these cases, by shewing who were the aggressors; and he also appears to have taken no measures to put that question into a proper train of inquiry and decision, so as to prevent future contests till the right of the parties could be determined by regular suit.

That the Court are fully aware of the pressure of business under which the magistrates labour, in districts like those of Rajeshahye. But they think it proper to observe, that such careless and superficial investigation as this case exhibits, is one great cause of the evil, by the opportunities which it must afford the intriguing and ill-disposed, of commiting acts of violence and injustice with impunity.

* This circular has been retained as it may still apply to Judges holding Quarterly Sessions. See No. 77.

† See Part II.

That the Court have reason to suspect, that the landholders and their principal officers often instigate their peons and ryots to commit affrays; and when mischief ensues, contrive themselves to escape question by the connivance of the police officers, and sometimes of the native officers of the magistrates, and that consequently only the inferior agents are given up to justice.

That the Court understand, that affrays frequently happen close to the police thannahs; that as affrays seldom take place without previous indications, of which a police officer near the spot cannot fail to be apprised, their happening close to a thannah, without any exertion of the darogah to prevent them, by timely interposition or timely notice to the magistrates, must in general be a presumption against the darogahs, of gross neglect, or corruption and collusion.

That the Court further apprehend, that affrays occasionally take place for want of seasonable interposition on the part of the magistrate, when he has received information of their probable occurrence.

That the Court will therefore expect from the magistrates a vigilant attention to the conduct of their police officers, the zemindars, and their umla on such occasions; and that by strict inquiry whenever affrays may happen, they will detect the abuses stated above, and bring the authors of them to suitable punishment.

That the Court will further expect a prompt interposition by the magistrates, whenever they may receive information of the probability of affrays; and that they will not on such occasions content themselves with merely preventing the immediate mischief, but also take the proper measures for determining the question of possession till the rights of the parties can be legally determined, so as to remove all pretext for disputes during the interval.

That whenever affrays may actually occur, the magistrates will exert themselves by patient investigation to ascertain the truth of the case, and that in particular they will endeavour, as far as circumstances will admit, to bring forward witnesses unconnected with either of the parties.

That the Court will further expect the judges of circuit to be very attentive to the proceedings of the magistrates in these cases, and to report to this Court any cases in which the magistrates may appear to them to have failed in an active and zealous execution of the preceding instructions.

No. 51.

To the Courts of Circuit.

May 10, 1809.

I am directed by the Court of Nizamut Adawlut, to transmit to you for your information and guidance, the accompanying copy of a letter, addressed to the Secretary to Government in the Judicial Department, under date the 19th ultimo, and an extract of a letter from Mr. Secretary Dowdeswell, dated the 28th ultimo; and to desire that you will communicate the same to the judicial officers in your division, for their respective information and guidance.*

To the Secretary to the Government in the Judicial Department, April 19th, 1809.

I am directed by the Court of Nizamut Adawlut to request, that you will submit for the consideration and orders of the Right Honorable the Governor General in Council, the accompanying copy of a letter from the acting magistrate of zillah Tipperah, dated the 3d instant.

Adverting to the subject of the last paragraph of the acting magistrate's letter, the Court are of opinion, that whenever a police darogah is suspended from office during the trial of a charge against him, and it is found necessary to appoint an acting darogah, the latter should receive the full salary of the office whilst he is so employed.

The Court are further of opinion, that in such cases, if the darogah be acquitted of the charge against him, the magistrate, or Court of Circuit, before whom the trial may be held, should report for the consideration and orders of Government, whether the darogah appears to them to be entitled to receive the whole or any part of the salary of his office for the time of his suspension.

In the event of a darogah being considered to be entitled to the whole or any part of his salary, the Court would recommend, that it should be paid by Government.

Extract of a Letter from the Secretary to the Government in the Judicial Department, dated 28th April, 1809.

The Governor General in Council approves the rule suggested by the Court to be observed with respect to the salary of police darogahs, when suspended from office, on charges of corruption or other misconduct. The Court is accordingly requested to issue the necessary instructions on that subject, to the several magistrates and Courts of Circuit.

* See No. 198.

No. 53.

To the Several Courts of Circuit.

May 31, 1809.

I AM directed by the Court of Nizamut Adawlut, to transmit to you the accompanying extracts from the report of the senior Judge of the Calcutta Court of Circuit, on the conclusion of the 2d sessions of 1808.

Adverting to the very successful operation of the measure adopted by the magistrate of zillah Nuddea, in obtaining the aid and support of the landholders and their agents, as required by the regulations, (especially by Sections 11. and 12. of Regulation IX. 1808,) the Court desire, that you will communicate the extract above mentioned, to the several magistrates within your division, and direct the adoption of similar measures whenever the state of the district, with respect to prevalence of dacoity, may appear to require it.*

Extract from a letter from the senior Judge of the Calcutta Court of Circuit, dated the 21st May 1809.

Par. 4.—Opinions vary as to the causes of this continued and increasing commission of offences, and many I believe ascribe it to the defects of the system. I confess I cannot concur in this sentiment, for the regulations appear to me in every respect well adapted to ensure an efficient police, and if fully carried into effect, would soon lead to the suppression of dacoity This is strongly demonstrated in the district of Nuddea, where the magistrate has succeeded in obtaining the aid and co-operation of the zemindars, and almost every description of people to an extraordinary degree, which he seems to have accomplished by assembling and explaining to the naibs and agents of the zemindars attending at the station, the purport and intention of the regulations, the assistance and co-operation expected from them, and the consequences of any omission or neglect on their part, either to assist the police officers, or to deliver up notorious dacoits, vagrants, or persons of bad or suspicious characters, supposed to subsist by depredations on the public.

No. 55.

The Proceedings of the Nizamut Adawlut.

September 12, 1809.

RESOLVED, that the Court of Circuit for the division of Bareilly be instructed to direct the magistrates within their divisions, t

* See Nos 80 and 241.

repeat both the proclamations of the 9th April 1806, and that prescribed by Section 11, Regulation III. 1804, taking particular care that returns are duly made to them by their police officers of the publication of the said proclamations, and the manner in which it may have been done.

That the Court of Circuit be further requested to direct the magistrates to make a detailed report to them of the publication above ordered, and be informed that the Court rely upon their attention to see that it is effectually made; and that on referring any trials to the Court for the offences to which the said proclamations relate, they will furnish the Court with accurate information to show that the publication of the proclamation has been duly made.

Resolved further, that similar instructions be issued to the Court of Circuit for the division of Benares, with respect to zillahs Goruckpore, Allahabad, and Bundlecund.

No. 57.

To the Provincial Courts of Appeal and Circuit, and Judges and Magistrates.

November 4, 1809.

I AM directed by the Nizamut Adawlut to transmit to you the accompanying notification in the Persian and Hindoostanee languages; and to desire that you will have the same publicly read and affixed in your cutcherree, for general information.*

No. 58.

To the Courts of Circuit.

December 12, 1809.

I AM directed by the Nizamut Adawlut to transmit to you, for your information and guidance, the accompanying extract from the Court's proceedings of this date, and to desire that you will communicate the same by a circular letter to the several magistrates within your division.†

Extract from the Proceedings of the Nizamut Adawlut, on the 12th December, 1809.

A reference having been made to the Nizamut Adawlut, respecting the propriety of magistrates permitting their native

* The translations of this notification will be found in the appendix, it was issued with a view to prevent alterations &c being made in the Records of the Courts by subordinate native officers and others.

† See Nos. 102, 103 and 220, Part II.

officers to take the examinations of prisoners, and depositions of prosecutors and witnesses, the Court direct that the following observations be communicated to the several zillah and city magistrates, through the Courts of Circuit of their respective divisions, for their information and guidance.

The Court are of opinion, that in all cases, the examinations of prisoners, and, as far as possible, particularly in serious cases, the depositions of prosecutors and witnesses should be taken, exclusively and entirely, before the magistrate, or his assistant, without any preliminary or partial examination before a native officer.

The Court are further of opinion, that whenever a magistrate or his assistant, from the great pressure of public business, may be under the necessity of employing any of the native officers in taking depositions of prosecutors or witnesses, such depositions should be invariably taken in some part of the cutcherree in which the magistrate or his assistant may be sitting, and not in a separate building, or in the absence of the magistrate or his assistant.

No. 59.

To the Courts of Circuit.

December 12, 1809.

THE advocate general having been consulted by the Nizamut Adawlut, whether, under the appointment of a magistrate to be a justice of the peace, in conformity with the provisions of the statute 33, George III., Clause 52, Sections 151, 152, and under the rules prescribed in Regulations II. 1796, and XV. 1806, for the guidance of the zillah magistrates, on the receipt of criminal charges against European British subjects, it is incumbent on a magistrate, as a justice of the peace, to comply with an application made to him for relief, in a case of forcible entry and detainer: and the Court having further requested the opinion of the advocate general, whether the zillah and city magistrates who have taken the oaths of qualifications as justices of the peace, are bound in consequence to take cognizance of any complaints against European British subjects, excepting such as are provided for by the rules contained in Regulations II. 1796, and XV. 1806; the advocate general has given the annexed opinion on the foregoing questions, which you are desired to communicate to the several magistrates within your division, for their information and guidance.*

* Cases of the nature alluded to in this circular are now disposed of under Act IV. of 1840.

Opinion of the Advocate General, December 11, 1809.

The office of justice of peace being introduced into this country by act of parliament, the regulations can have no effect in dispensing with any duties, which persons holding that office would be bound by law to perform. Whether they are, or are not, authorized to exercise any specific power, or (which is the same thing) bound to discharge any specific duty, in this country, which belongs to the office of justice of the peace in England, must in every instance depend upon the question, whether that part of the English law, on which the given power or duty depends, is or is not applicable in this country. There are some broad lines which might be laid down for determining this question in certain cases; but in many cases it is and must be matter of nice judicial discretion.—As I see no practical use, but on the contrary a great deal of inconvenience, in attempting to describe generally what matters are, and what are not cognizable by justices of the peace here, I beg to decline it.—The cases of the most common occurrence are attended with no difficulty; and the course which the magistrates have to take in them is, or easily may be well known. If any should occur, which are out of the ordinary routine, the easiest and safest way for the magistrate is to apply to the Government for instructions, which may be always obtained without any great delay. And if the case should be such as not to admit of that delay, (though I can hardly imagine such a case,) the magistrate may, I am sure, confidently act for the best; refusing or granting his interference as he thinks most expedient for the purposes of justice and public convenience If his intentions are upright, the law will hold him harmless of any personal consequences; and speaking from my own experience, I have no doubt that the Government would always think itself bound to defend him if attacked where his motives were unquestionable.

With regard to the particular instance which has been brought before the Nizamut Adawlut of an application for a proceeding under the statutes of forcible entry, I am of opinion, that the magistrate acted rightly in refusing to comply with it. By those statutes justices of the peace in England have two sorts of powers; the one penal, against those who commit the violence; the other remedial, by directing restitution to the party dispossessed; this latter however, they cannot exercise of themselves, but are bound to summon a jury to inquire of the fact of violent dispossession, and if the jury present the force to the Justice, he may issue his warrant to the Sheriff to restore the possession. This part of the statutes has been very lately holden by the Supreme Court not to be applicable in this country, upon a motion, made by me in the last term, for a mandamus to the justices of Calcutta, directing them to issue their precept to the sheriff.

to summon a jury to inquire of a forcible dispossession. The motion was rejected principally upon the ground, that this proceeding by jury was not applicable to the state and condition of British subjects in this country; or consonant to the spirit of the charter, which had for reasons obviously derived from that state and condition, intrusted the decision on facts in matters of civil right (as they held this of restitution to be) to another tribunal. This reason of course applies a fortiori in the mofussil. With regard to the penal power, the justice in England may, on the application of the injured party, proceed to the spot, and if he finds the offenders in the actual commission of violence, or armed to retain what they have seized, he may record the fact on his own view, and commit them to prison; or take away their arms; but must not put the ousted party into possession.—I am inclined to think that if it were necessary, a justice of the peace might exercise this power here over Europeans; but in the case before the magistrate, it was not necessary to exercise this summary authority in order to preserve the peace; and therefore he did rightly in a doubtful and unprecedented case to abstain and report the matter to the Nizamut Adawlut.

No. 61.

To the Courts of Circuit.

December 28, 1809.

The Court of Nizamut Adawlut having been given to understand, that some of the judges of the Courts of Circuit are accustomed to carry away the proceedings of the magistrates in the trials made over by them to the Courts of Circuit, and that in consequence the magistrates have been under the necessity of having copies of such proceedings made, to be retained among their own records, the Court direct me to desire, that you will in future abstain from such practice.

I am further directed to desire, that you will return to the magistrates, their proceedings on trials referred to this Court, which are always returned you from this office.

As however the judges of circuit may think it expedient in particular cases, to detain the original proceedings of the magistrates referred to above, or to require copies of them, I am at the same time desired to inform you, that you are competent to resort to either of those measures, whenever it may appear essentially necessary.

No. 62.

To the Courts of Circuit.

January 23, 1810.

INSTANCES having occurred of witnesses being permitted to give their evidence without taking the oath, or subscribing the solemn declaration required by the regulations, on the grounds of the tender years of the person examined, I am directed by the Nizamut Adawlut to desire, that you will make it a rule to take the examinations of all persons deposing before you, on oath, or a solemn declaration, however young in years they may be, provided they appear to have a competent discretion, and to entertain a sufficient sense of the nature and obligation of an oath.

I am further directed to desire, that you will circulate the above instructions to the several magistrates within your division, for their information and guidance.*

No. 65.

To the Courts of Circuit.

March 5, 1810.

IT having having been represented to the Nizamut Adawlut, that the execution of the criminals who are sentenced to suffer death, (epecially of sirdar dacoits, and other notorious robbers,) may in some instances produce a deeper impression, and operate more powerfully as an example, by its taking place at or near to the spot, where the crime has been committed, instead of the usual mode of execution at the magistrate's place of residence, and gibbeting† the body at or near to the place where the crime was committed; I am directed by the Court, to desire you will inform the several magistrates within your division, that they are at liberty in all instances to execute criminals sentenced to suffer death, at such place within their respective jurisdictions, as may appear to them most expedient, causing the body to be afterwards gibbeted at or near to the spot where the crime may have been committed—The future sentences of the Nizamut Adawlut will accordingly not specify the particular place of execution; and the necessary alteration is to be made in the warrants of the court of circuit.‡§

* See No. 1, Part II.
† Gibbeting bodies is now interdicted.
‡ See No. 180, 260, 266, and 305.
§ Altered in pursuance of an order of Government under date the 4th November 1811 to on or before the—Instant or (according to ci cumstances)— proximo.

2. In exercising the discretion thus vested in the magistrates, they will of course be careful, whenever a convict may be sent to any distance from the jail for execution, to appoint a sufficient guard for his safe custody, together with a responsible officer of the Court, who, jointly with the commanding officer of the guard and the local police officers, after attending the execution of the prisoner should make a written report of the due execution of the sentence.

3. The Court further desire that the magistrates will be careful to prevent any exactions from the inhabitants of the country, either at the place of execution, or where the body is gibbeted: and, with a view to prevent offence against the prejudices of the natives, the Court direct that no criminal be executed, or gibbeted, within any town, village, or other inhabited place; or so near to the house of any individual as to afford just ground of complaint.

No. 66.

To the Courts of Circuit.

March 6, 1810.

I AM directed by the Court of Nizamut Adawlut to communicate to you, for the information and guidance of the several magistrates within your division, the following instructions relative to the discharge of convicts sentenced by the Courts of Circuit, or Nizamut Adawlut, to temporary imprisonment, and confined under a sentence of banishment, or otherwise, in a zillah or city, different from that in which they were committed for trial.

First. Whenever a convict sentenced by a Court of Circuit, or the Nizamut Adawlut to temporary imprisonment, shall be in confinement at the approach of the period fixed for his discharge, in a jurisdiction different from that in which he was committed for trial, he shall be sent back, (with the warrant containing his sentence, or an authenticated copy of it, if the warrant include other convicts who are not sent at the same time,) to the magistrate of the jurisdiction in which he was committed for trial; unless the magistrate having charge of the convict, on information of his intended place of residence, or for any other special reason, shall judge it proper to discharge him in his own jurisdiction, or to send him for discharge the magistrate of a different jurisdiction, in which last case, he will be sent to the magistrate of such jurisdiction; and the magistrate to whom the convict may be sent in such cases, shall carry into effect the warrant for his discharge, taking bail or not as therein directed; or in particular cases requiring bail, though not directed in the warrant, if from any information before the magistrate, of the prisoner's dangerous character, it shall appear indispensably necessary to adopt this precaution. Provided, that in all such cases the prisoner, with a full report of the magistrate's

information respecting him, shall be brought before the Court of Circuit, at the next session, for the orders of that Court.

Secondly. The magistrate having charge of convicts to be discharged in another jurisdiction under the above rule, is to send them, in such custody as may appear sufficient, and with or without fetters, or with an iron on one leg only, as he may deem proper, to the magistrate by whom they are to be discharged, so as to reach him before the expiration of their respective sentences; and whenever a convict may have been committed for trial in a jurisdiction different from that to which he is sent for the purpose of being discharged, or may have resided before he was apprehended in a different district from that in which he was committed, and also from that in which he is sent for discharge, notice shall, at the same time, be given to the magistrate both of the jurisdiction in which he was committed for trial, and of that in which he formerly resided.

Thirdly. The magistrate sending convicts from one station to another under these instructions, is to furnish them with a sufficient allowance for their subsistence on the way, at the prescribed rate of diet money for the calculated period of the journey; but the allowance for one month's maintenance, not exceeding five rupees, to which convicts released after an imprisonment of six months, or upwards, and appearing to be in need of such assistance, are entitled under Section 25, Regulation IX. 1793,* is to be paid to them by the magistrate who discharges them, and he is required to be particularly careful that such allowance is, in all instances, received without deduction, by the person entitled thereto.

The foregoing instructions (which are issued with the sanction of Government on suggestion of the magistrate of zillah Hooghly) have in view not only the prevention of hardships to which convicts released at a distance from their places of residence are exposed, from their suspicious appearance, and consequent risk of being frequently seized and detained on their journey; but also to obviate, as far as practicable, the ill consequences that have been found to result from persons of dangerous character, and convicted of criminal offences, being released at the expiration of their sentences, without the knowledge of the magistrate in whose jurisdiction they were apprehended and brought to trial, or in which they have resided after being set at liberty.

It is expected that the magistrates and police officers of zillahs, in which discharged convicts were apprehended and brought to trial, or in which they may intend to reside, being duly advised of their release, will take the requisite precautions to watch the conduct

* Clause first, Section 4, Regulation XVI. 1795, for Benares; and Section 25, Regulation VI. 1803, for the ceded provinces. This allowance is now the more necessary as Prisoners only receive rations and cannot possibly save anything while in Jail.

of the persons discharged especially of such as may appear to be of dangerous character, and to guard against the repetition of criminal offences by them: the Court of Nizamut Adawlut therefore desire, that you will enjoin the strict attention of the magistrates to the rules now transmitted for their observance.

No. 67.

To the Courts of Circuit.

March 18, 1810.

A QUESTION having arisen, whether under the provisions of Regulation XIII. 1793, (extended to Benares by Regulation XII. 1795, and re-enacted for the ceded and conquered provinces by Regulation XII. 1803,) charges of corruption, or extortion, against the native officers of the civil and criminal Courts, can in any case be prosecuted criminally, I am directed by the Court of Nizamut Adawlut to inform you, (and to desire you will acquaint the several magistrates within your division,) that the Court do not consider the provisions in the regulation above mentioned, whereby the parties injured have the option of instituting a civil action, to preclude a criminal prosecution, whenever there may appear to be sufficient grounds for it, as expressly authorized with respect to charges of corruption or extortion against the police darogahs by Section 22, Regulation XX. 1793, (Section 20, Regulation XVII. 1795, for Benares; and Section 21, Regulation XXXV. 1803, for the ceded provinces.)

The Court are of opinion that in such cases, when the magistrate shall consider the information and evidence before him to be sufficient for bringing the parties accused to trial before the Court of Circuit, the prosecution should be public, and conducted by the vakeel of Government.*

No. 69.

To the Courts of Circuit.

April 17, 1810.

A QUESTION having arisen, whether the sepoys of Government employed on duty at the jails, should be required to guard the prisoners when taken out to ease themselves, I am directed to desire that you will acquaint the several magistrates within your division, that the Honorable the Vice-President in Council has

* The purport of the first paragraph of this order has been enacted in Section 6, Regulation 18 of 1817—but not the rule in the last paragraph—it has therefore been retained.

been pleased to determine, that the sepoys of *the regular battalions* should be exempted from the duty above mentioned; the magistrates will be guided therefore, by this rule, both now and hereafter, in the employment of the the regular sepoys who may be placed under their orders.

No. 70.

To the Courts of Circuit.

April 27, 1810.

A RECENT case before the Court of Nizamut Adawlut, in which it appeared that a prisoner convicted of robbery had, on a former occasion, been discharged under security for good behaviour, has induced the Court to consider the expediency of enforcing the penalty to which the surety is liable in such instances, with a view to discourage the common practice of persons for a pecuniary compensation, making themselves answerable for the conduct of men of bad character, over whom they have no influence, in the expectation, that whatever may be the future conduct of those for whom they are responsible, their security will be regarded as nominal, and not put in execution.*

To put a stop to this practice, the Court are of opinion, that whenever a person who has given security for his good behaviour and appearance, may be convicted of a serious criminal offence, and may not have been delivered up by his surety, the latter should be called upon to show cause why the penalty to which he is liable by his engagement, should not be enforced; and that unless satisfactory reason be assigned against enforcing the security bond, in whole or in part, it should be put in execution, by the usual process for the recovery of money, from the civil court, if not paid on the requisition of the magistrate.

The Court of Nizamut Adawlut accordingly desire, that you will attend to this point in any instances of the nature above-mentioned which may come before your Court; and that you will direct the attention of the magistrates in your division, to the subject of this communication, instructing them to make it known to all persons who may offer themselves as sureties for the conduct and appearance of men of suspicious character, in their respective jurisdictions.

The Court further direct, that the magistrates be cautioned to limit their requisitions of security for good behaviour and appearance, to such sums as it may appear equitable to recover, in the event of the conditions of the engagement not being performed; and that they be careful in ascertaining, that the sureties accepted,

* See No. 74.

are sufficiently responsible to make good the amount eventually demandable from them.

No. 72.

To the Several Magistrates.

August 2, 1810.

REFERENCES having of late been made to this Court to know, whether prisoners confined till they furnish security for their future good behaviour, may be employed in the construction of public works, or in the repair of the public roads, I am directed by the Court of Nizamut Adawlut to acquaint you, that in conformity with the spirit of Section 10, Regulation XXII. 1793, (or Section 10, Regulation XXXV. 1803, in the ceded provinces,) you are at liberty to employ prisoners of the above description in the same manner, and with the same restrictions as you are authorized to employ convicts by the circular orders of the Nizamut Adawlut, under date the 6th April and 10th of August 1796.

2. I am at the same time directed to desire, that you will be careful not to employ the prisoners at any great distance from the sudder station, where they might be subject to difficulty in procuring sureties; you will endeavour as much as possible to keep prisoners of the above description distinct from prisoners convicted of specific offences; and you will understand that they are never, on any occasion, to be sent beyond the boundaries of your district.

No. 73.

To the Courts of Circuit.

August 23, 1810.

SOME trials have been recently before the Nizamut Adawlut, in which there were strong grounds for believing, that confessions have been procured from the prisoners at the thannas by very improper means, and that such confessions have been subsequently repeated and confirmed before the magistrates, under the influence of those previous impressions.*

2. The attention of the Court has, in consequence, been seriouly engaged in considering whether any measures can be adopted, calculated to repress practices so atrocious in themselves and so incompatible with a pure administration of justice. It having occured to the Court, that the following precautions will conduce to that important end, they have directed me to communicate them to you for your information; and to desire, that you

* See No. 54, Part II, paragraphs 20, 21 and 22.

will extend the communication to the several magistrates within your division, for their information and guidance.

3. Experience having shown, that accused persons sent into the common jail, without examination, are put on their guard by the other prisoners, and, in consequence, generally decline to make any confession or discovery when examined, several magistrates, to avoid this inconvenience, appear to have adopted the practice of examining all persons sent in by the police officers, as soon as possible, after their arrival at the station

4. This practice, the Court observe, is well adapted to accomplish the object which it proposes; but is also attended with danger, that the persons examined, when under strong impressions of any improper treatment which they may have experienced in the Mofussil, may be induced, before they have had time to recollect themselves, to confirm fabricated and extorted confessions.

5. The Court remark, that it will obviously require great circumspection on the part of the magistrate, to guard against this danger. That the following are the precautions which naturally suggest themselves. The magistrate (or his assistant, if the latter be employed on such occasions,) to be mild and patient in his examination of the prisoners; to exert himself to ascertain whether they have been subjected to improper treatment in the Mofussil; to make prisoners sensible that they are secure against such practices while under the magistrate's charge; to be particularly attentive that alleged Mofussil confessions of prisoners, be not recorded as confessions made before himself, from being read to prisoners and receiving their assent; but to satisfy himself, by making prisoners tell their own story, that their statements are deliberate and spontaneous; lastly to be watchful, that prisoners are not subject in the jail, or other places of confinement, to any continuance of the improper means, to which they are liable at the thannas.

6. In one of the cases which have drawn the attention of the Court to this subject, a prisoner accounted for his having confirmed before the magistrate a false confession, which the police officers had extorted from him, by stating that when examined in the fouzdarry Court, he was surrounded by several of the persons, who were concerned in the violence which he had suffered. The Court remark, that this circumstance will show the magistrates, the necessity of being cautious that the police officers, under whose charge the prisoners are sent in, be not permitted to exercise any interference, when they are examined.

7. The Court are further of opinion, that the ill-treatment of prisoners might be greatly checked, by attention on the part of the magistrates, to enforce the rule contained in Section 17, Regulation IX. 1807; which enjoins, that the police darogahs shall, in all cases, despatch to the magistrates, all persons appre-

hended by them, within forty-eight hours after their arrival at the thanna cutcherry. The Court have had frequent occasion lately, to notice the infringement of this rule, and judge it therefore necessary to impress upon the magistrates the necessity of enforcing its strict observance.

8. The Court have also observed, that confessions have been frequently procured from prisoners in the Mofussil, at unseasonable hours of the night, and in secret, and sometimes in solitary places, where only the police officers, or persons under their influence, have been allowed to be present: that altogether to prohibit secret examinations, would lead to serious inconvenience; but that at the same time, the most vigilant attention of the magistrates, is obviously required to prevent the police officers grossly abusing this power; that such mode of proceeding can rarely be necessary, and that it ought of consequence to be the constant care of the magistrate to see, that it is not adopted without adequate cause.

9. I ut with all these precautions, the Court remark, that the principal security against the practice of procuring false confessions, will consist in the careful investigation by the magistrates and Courts of Circuit, of the cases coming under their cognizance; that the too ea-y admission of confessions, will always operate as a temptation to impose false confessions on the Courts; while, if they are received with circumspection, and all the additional evidence which the case may admit of, uniformly required and carefully taken, the fear of detection must prove a powerful discouragement to the practice.

10. The Court likewise desire to call the attention of your Court, to the necessity of carefully examining the witnesses to fouzdarry confessions, so as to ascertain that they have been made under the magistrate's immediate inspection, or that of his assistant, and under circumstances which excluded any improper interference or influence: the case which the Court have referred to above, sufficiently establishes the expediency of these cautions.

11. The Court also rely on your Conrt, to enforce the observance of the preceding instructions to the magistrates, and to correct any irregularities which you may notice in their proceedings, and the proceedings of their police officers, which may have escaped their animadversion.

12. It is only, the Court observe, by the constant exercise of this control, that the regularity of proceeding can be secured, which is essential, not only to the prompt despatch of business, but to the highest interests, both of individuals and the community.

No. 74.

To the Courts of Circuit.

August 30, 1810.

A QUESTION having arisen, whether recognisances for the peace and good behaviour are merely personal, and the obligation of the penalty bond determinable with the life of the original surety, or whether the amount of the penalty be demandable from the estate of the surety, I am directed to desire, that you will circulate the following instructions for the information and guidance of the several magistrates within your division.

2. In cases, wherein it may be necessary to enforce a penalty bond entered into by a surety for the peace, and it shall appear that the surety is dead, the magistrate, in enforcing the engagement as directed in the Court's circular orders of the 27th April last, will proceed against the heirs and executors of the surety, to the extent of any property belonging to the deceased, which may have come to their hands.

3. Under the above rule, the magistrate will be careful in future that the penal engagement entered into by a surety, specifies the responsibility to which his heirs and executors will be liable, in the event of his demise.

4. You will instruct the magistrates at the same time to cause it to be generally made known, that sureties delivering up the persons for whom they are responsible, may at all times obtain a discharge from further responsibility, and direct them to attend to any application made to them for that purpose; at the same time requiring the persons so delivered up, to find other and sufficient security.

5. In all cases when the surety may die, his representative will also have the option of obtaining a discharge by delivering up the party engaged for, as provided with respect to the surety himself in the preceding paragraph.

6. In carrying the above instructions into effect, when the magistrate may not receive any special orders from your Court or the Nizamut Adawlut, the Court authorize the magistrate to exercise his discretion in not enforcing the penalty, either wholly or partially, when the circumstances of the case may appear to call for indulgence, or any equitable reason may exist for dispensing with the penalty.

No. 75.

To the Courts of Circuit.

September 6, 1810.

THE Court of Nizamut Adawlut having had their attention drawn to the severe hardships, to which prosecutors and witnesses are occasionally subjected, by a protracted detention at the sudder station during the time of session; and it being desirable that individuals should be relieved as much as possible from the inconvenience attending their being summoned to give evidence before the Courts of Circuit; and the Court judging it of moment, that the heavy expense to which Government is at present subject on account of diet money to indigent prosecutors and witnesses, should be reduced as far as circumstances will admit; I am directed to desire, that you will communicate the following instructions to the magistrates of the several districts comprising your division.*

The magistrates, on receiving intimation from the Judges of circuit, of the date on which they propose to commence the jail deliveries of their respective stations, will summon the prosecutors and witnesses in a few only of the first trials on the calendar, and are desired to be careful that they are in attendance against the judge's arrival.

As soon as the judge of circuit arrives, and the circuit duty commences, the magistrate will proceed to issue the customary process for the attendance of the prosecutors and witnesses in a few more of the trials, and so on in regular succession according to the calendar.

The magistrates in carrying the above orders into execution, will hold it in mind that the two objects to which their attention is particularly required, are the relief of prosecutors and witnesses from unnecessary detention to give evidence on the trials, and the preventing interruption to the sittings of the judge of circuit, from delay in causing their attendance when the trials on which they are summoned are brought forward.

The magistrates, in paying the prescribed allowance to indigent prosecutors and witnesses, will be careful to ascertain the actual attendance of the parties on the Courts of Circuit, and are desired to establish such checks as may appear to them most effectual, to guard against overcharge by the native officers on this account.

The detailed accounts for diet money will be countersigned by the judge of circuit, holding the jail delivery.

* See No 91 and No 125 Part II.

No. 77.

To the Courts of Circuit,

December 27, 1810.

A QUESTION having been submitted to the Nizamut Adawlut respecting the immediate trial of prisoners committed by a magistrate, whilst the Court is sitting, I am directed to communicate to you the following instructions in modification of the order issued by the Nizamut Adawlut on the 30th November, 1796, and 13th April 1808.

2. In order to prevent the indefinite detention of the Court of Circuit by the trial of commitments made after their arrival at the several zillah stations, the Court direct, that the magistrates be restricted to one supplementary calendar, including persons committed or held to bail for trial before the Court of Circuit, during the session of the Court, on the trial of the prisoners, named in the original calendar.

3. You are requested to communicate a copy of these orders to the several magistrates within your division.*

No 78.

To the Courts of Circuit.

January 4, 1811.

I AM directed by the Court of Nizamut Adawlut, in continuation of the orders communicated to you in my circular letter of the 23d of August last, to transmit to you the accompanying extract of a letter, from the Secretary to Government in the Judicial Department, dated the 21st ultimo, and to desire, that you will communicate the same to the several magistrates within your division.

Extract of a letter from the Secretary to Government in the Judicial Department, dated December 21, 1810.

PAR. 3. The Governor General in Council has learned with deep concern, the offence committed by some of the darogahs of police in that zillah, of extorting by threats and intimidation unfounded confessions from persons apprehended. His Lordship in Council would hope, with the Nizamut Adawlut, that this criminal practice may not be so prevalent as appears to be supposed by the acting Judge; but the facts stated by Mr. Watson are sufficient to

* This circular has been retained as it may still apply to Judges holding Quarterly Sessions.

show, that every possible exertion should be made for the prevention of this serious evil in future. The Governor General in Council approves generally the orders passed by the Nizamut Adawlut on this point.

PAR 5. The Governor General in Council has observed with equal concern, the grounds which exist for apprehending, that acts of great violence and extortion have been committed by the goindahs, noticed in the 11th paragraph of the Court's resolutions.—These cases being under investigation, the Governor General in Council has no particular orders to pass on the subject further than to observe, that the magistrates cannot be too strongly enjoined to observe the utmost circumspection in the employment of instruments of that description; and to take immediate measures for bringing to condign punishment any of them who may be guilty of the above, or any other criminal offence.

No. 79.

To the Courts of Circuit.

January 4, 1811.

AN instance having recently occurred of a magistrate's committing the servants of an English gentleman, to take their trial before the Court of Circuit, on a charge of being concerned with their master, in the commission of an offence for which he has been ordered down to the presidency to take his trial before the Supreme Court, and it being expedient that all parties in cases of a nature similar to that here referred to, should be tried by the same tribunal, the Court desire, that you will instruct the several magistrates within your division, to refrain from trying themselves, or committing for trial before the Court of Circuit, natives charged or suspected of being concerned with British subjects, in the commission of offences, until they have made a reference to the Court of Nizamut Adawlut, and have been furnished with instructions for their guidance in the case.*

No. 80.

To the Courts of Circuit.

January 17, 1811.

I AM directed by the Court of Nizamut Adawlut to transmit to you the accompanying extract of a letter from the Secretary to Government in the Judicial Department, dated the 11th instant;

* See a letter in the Appendix addressed to the Senior Judges of Rajeshahye on the [illegible] August 1828 explaining this Circular.

and to desire, that you will communicate the same to the several magistrates within your division, for their information and guidance.

Extract of a letter from the Secretary to Government in the Judicial Department, dated 11th January 1811.

PAR. 2.—The mochulkas taken either in conformity to the orders of the Nizamut Adawlut of the 31st May 1809, or in consequence of a misconception of the intent of those orders, appear to be of three descriptions; 1st, Those taken from the zemindars themselves; 2dly, Those taken from the munduls, or principal persons in each village; and 3dly, Those taken (accompanied with security) from the ryots.

3. Although mochulkas or penal engagements may be convenient and unobjectionable in instances in which only individuals are concerned, the Governor General in Council is decidedly of opinion that in cases affecting whole classes of the people, the proper course is, to prescribe the duty to be performed by them by a regulation, with the adequate penalties for neglect of its provisions. The Governor General in Council would have entertained these sentiments, had the present question respected only much smaller bodies of the people than must have in fact been affected by its operation: but when it is considered that, under the threefold distinctions already stated, mochulkas must have been taken from a large proportion of the general population of the country; and that the mochulkas were not taken at least in two out of the three cases above stated, directly by the magistrates, but by the zemindars and munduls, the Governor General in Council cannot but apprehend, with some of the local officers, that the requisition of those instruments, may have been attended with considerable abuse and extortion.

4. With these sentiments the Governor General in Council is entirely of opinion, that the magistrates should be prohibited from requiring any further mochulkas of either of the descriptions noticed at the commencement of this letter, or from acting upon those already executed. Considering the numbers which must have been taken, it might be attended with inconvenience formally to annul them, but Government is entirely of opinion that they should be rendered inoperative.

6. The Governor General in Council entertains considerable doubts regarding the expediency of investing the zemindars with power to apprehend persons on the ground of their being known robbers, and persons coming under the appellation of vagrants.

7. The abuses formerly committed by the zemindars, when invested with power in matters of police, are notorious. The truth of this position is recognised in the preamble to Regulation

XXII. 1793. *The policy of Government, especially during the last two or three years, in which the police has engaged so much* of the attention of the Governor General in Council, has been to restrict the agency of the zemindars and others to the communication to the magistrate, and other officers of police, of early information respecting the commission of public offences, within the limits of their respective estates, (in the performance of which duty, it is not easy for them to commit any abuse or oppression;) but to withhold from them all positive power of interference in matters of that nature, in which experience had shown that they could not safely be trusted It will of course be understood, that the zemindars, like any other individuals, are competent to apprehend persons in the actual commission of public crimes.

13. The Governor General in Council would suppose that Section 18, Regulation XVI. 1810, as at present worded, would be considered applicable to any meritorious service rendered (to use the terms of your letter) in the discovery and apprehension of persons really "notorious as robbers" But if not, His Lordship in Council thinks that it might be explained in an order from the Nizamut Adawlut. His Lordship in Council is at the same time of opinion, that the provision in question should not be considered applicable to persons coming under the vague description of "vagrants," as he is apprehensive that such a construction of it might be productive of much vexation to the community, especially to travellers.

No. 81.

To the Several Courts of Circuit.

January 17, 1811.

The attention of the Court of Nizamut Adawlut having been seriously attracted to the great hardships endured by persons apprehended, solely on suspicion of bad livelihood or on information of notoriety of bad character, owing to the inquiry into such suspicion or information being unavoidably protracted by the numerous avocations of the magistrate, I am directed, in pursuance of instructions received from Government to transmit to you the orders subjoined; and to desire, that you will communicate the contents to the several magistrates within your division, and that you will require a strict observance of the same on holding the jail delivery at each station.

2. Whenever persons may be apprehended on suspicion of bad livelihood, or information of notorious character only, the magistrate shall, with the least possible delay, make such inquiry as may appear necessary to ascertain the grounds and truth of such

suspicion or information; and if the party suspected, or informed against, be able to give sufficent bail for his appearance during the magistrate's inquiry, he shall be admitted to bail accordingly.

No. 82.

To the Courts of Circuit.

January 21, 1811.

THE Nizamut Adawlut having observed, in several cases recently under their consideration, that persons have declined preferring complaints to the magistrates, through apprehension of their attendance being required to make oath of the validity of the charge, the Court judge it necessary that such parts of Clause 1st, Section 6, Regulation IX 1807, empowering the magistrates to dispense with an oath and the attendance of the complainant in particular cases, should be promulgated for general information; and accordingly desire that you will instruct the magistrates, to adopt the proper measures (if they have not already done so) for making the provisions of the regulation above noticed, generally known throughout their respective jurisdictions.

No. 83.

To the Several Magistrates.

April 12, 1811.

I AM directed by the Court of Nizamut Adawlut to transmit to you the accompanying copy of a letter, from the superintendent of police for the Lower Provinces, dated 24th February 1811, with the forms of official memorandum books and statements therein described, No. 1 to 4.

2. The objects noticed by the superintendent, viz regularity in the general business of the magistrate's office, and the means of ready information to the magistrate himself, without depending on the reports of his native officers, being of essential consequence, and the books and statements suggested, appearing to be well calculated for the attainment of the ends proposed; the Court desire you will cause such to be prepared, and regularly kept in the Persian language, adopting, in substance, the forms herewith transmitted to you, with any additions or modifications, which may be found useful or expedient.

3. With a view to maintain the distinction between cases of greater or less magnitude, intended by the forms No. 1 and 2, and at the same time, to keep separate the cases depending before the magistrates, and those referred to his assistant, or his assistants, the Court are of opinion, that all cases referred to the latter

should be entered in the book No. 2, and that No. 1, should include all cases before the magistrate.

4. *I am further directed to transmit you (Nos. 5, 6, 7, and 8*)* Forms of general and alphabetical registers, which have been submitted to the Court, of escaped convicts, absconded persons charged with robbery, or other heinous offences, whom it is an object to apprehend; including a separate list of proclaimed persons; also a register of persons released under security.

5. These registers appearing to be of material use in enabling successive magistrates to ascertain what persons have escaped from jail, or have eluded the pursuit of justice in their respective jurisdictions, as well as what persons apprehended on criminal charges, have been released on former occasions under security for good conduct, the Court desire you will take immediate measures for preparing registers in the Persian language, corresponding in substance with the forms referred to as far as the records of your office may furnish materials; and that you will be careful to have them regularly kept up in future.

6. In the 7th paragraph of the accompanying letter, the superintendent of police suggests the expediency of furnishing the police officers with blank books, to be signed and paged by the magistrate, or his assistant, and to contain a daily record of all official transactions at the thanna. The Court are of opinion, that a diary of proceedings held by the police darogahs, will be of considerable utility in checking their monthly reports, as well as in affording the means of ascertaining, when requisite, what has been done by them in particular cases. You are accordingly desired to instruct the police darogahs within your jurisdiction, to keep a daily abstract of all proceedings held by them in their official capacity; and to provide them with books for this purpose; paged and signed by yourself, or assistant, or by native officers of your Court, to whom you may judge it proper to delegate this duty. The journal so kept, should be transmitted monthly by the police darogah to the magistrate, with the monthly report required by the regulations.

(COPY.)

To J. SHAKESPEAR, Esq.

Register to the Nizamut Adawlut,

Fort William.

SIR,—Conceiving it to be proper that I should submit to the consideration of the Nizamut Adawlut, any suggestions which may relate to the conduct of the business of the zillah and city

* The forms here referred to, excepting that of persons released on security, (No. 8) have since been superseded by Section 13, Regulation III 1812

Courts, and which may appear to me to be calculated to restrain abuses, and to remedy inconveniences that may at present exist; I have to request you will be pleased to lay before the Court of Nizamut Adawlut, the propositions for the general purposes above noticed I do myself the honour to submit with deference, for the consideration and orders of the Court.

2. It appears to me, that the want of the establishment in each zillah and city, under the sanction of the Nizamut Adawlut, of certain uniform and approved arrangements tending to establish regularity in the general conduct of the business of the Courts, to introduce also salutary checks on the conduct of the native officers of those Courts, and to enable the magistrate at all times personally to inspect the state of the business, without being dependant on his native amlah for information, has been productive, in some zillahs, of the most serious evils.

3. The arrangement of the details of office, has been generally left to the native officers of the Court, or has been altogether neglected, probably from its being commonly regarded as a matter of inconsiderable importance, undeserving the attention of the magistrate; I apprehend, however, that it is in a great measure owing to this cause, that the business of the fouzdaree Courts has so heavily accumulated, notwithstanding the unremitted exertions of the magistrates and the devotion of their whole time to the duties of the fouzdaree Court; and that it is likewise owing to this cause, that persons are sometimes detained in custody, unknown to the magistrate, for an unreasonable length of time, before an inquiry is made into the charge upon which they may have been apprehended.

4. It is doubtless deemed an object of the first importance, that all persons apprehended should be brought to trial without any unnecessary delay, and that the previous investigation made by the magistrate to ascertain whether the charge be well founded or otherwise should be completed as speedily as practicable, in order that, if innocent, such persons may not experience unnecessary detention and hardship.

5. The forms which I have herewith the honour to submit for the consideration of the Nizamut Adawlut, are designed to provide against such evils, as well as for the several objects hereafter specified; and should they meet with the approbation of the Nizamut Adawlut, I would beg leave to submit to the consideration of the Court, the expediency of their general adoption in the office of every zillah and city magistrate in the districts within the division of the Lower Provinces, sanctioned and enforced by the weight of the authority of the Court of Nizamut Adawlut.

FORM NO. 1.

In a book kept according to this form, it is proposed, that all charges of crimes of magnitude, and particularly such as are not bailable, whether preferred to the magistrate or forwarded by the *darogahs, or other police officers, should be regularly and daily* entered, as they may be preferred or received; and is intended to provide for the following objects:—

1st. That the magistrates may observe from this book, what persons are in custody, and upon what charges they may have been apprehended.

2dly. That not being dependant, for such information, on his amlah, the trials of such persons may be brought on with the least practicable delay, so as to preclude the possibility of their being intentionally kept back by the amlah.

3dly. That the final order of the magistrates, on all cases, may not be unnecessarily protracted; and that, when it may be postponed for further evidence or other ground, the magistrate may have constantly under his observation, the cases of such persons, and may notice when his darogahs may neglect to furnish, within a given and reasonable time, any further evidence that may have been called for, either in substantiation of the charge, or in regard to the general characters of the accused, so as to enable the magistrate to dispose finally of the case.

4thly. To enable a person taking charge of the office of magistrate of a district, to ascertain the state of the business of the zillah, and what cases may be postponed or pending, without being, as at present, dependant on the amlah of the Court, for such very necessary information.

It is submitted, that this book or record should always be before the magistrate, in his cutcherry, that the substance of the order which may be passed on the day's proceeding in each case, may be recorded at the time of passing the order, or at all events, before the Court breaks up, in the column allotted for that purpose. And, as I have understood a practice to obtain in some zillahs, of drawing out the proceedings on each case, after a lapse of some days, it may serve to prevent errors and mistakes, on the part of the officers, to whom this important duty may be intrusted, in regard to the nature of the orders which may have been passed by the magistrate on the case.

It will likewise be found of considerable assistance in preparing the calendar for the Court of Circuit, and will obviate in future those omissions and inaccuracies which at present abound from the inattention of the native officers, in some of the statements furnished by the magistrates to this office, of heinous crimes reported to them.

This record may conveniently be kept by the paishkar of the

Court, or by the person who may usually be employed to draw out the proceedings of the Court.

FORM No. 2.

In a book kept according to this form, it is proposed that all cases of lesser magnitude and of a bailable nature may be entered, for the purposes above noticed, as far as may be applicable to cases of that description, and may be kept by any intelligent mohurrir of the Court.

FORM No. 3.

It is proposed that this form should be kept by the nazir of the Court, and daily produced by that officer for the inspection and signature of the magistrate. This record appears to me to be of the utmost importance in the prevention of very serious evils that are liable to arise from the want of a check of this nature—It is intended :—

1st. To bring under the daily notice of the magistrate the number of persons who may be in custody, and not admitted to bail, on charges pending before him for investigation.

2dly. To show what number of persons may have been apprehended or sent in by the police officers on the preceding day, and upon what charges.

3dly. To show that persons whom the magistrate may have ordered to be discharged on the preceding day, have been duly released.

4thly. To lay before the Court of Circuit, for the purpose of exhibiting to the Court, what number of persons have been usually in custody, under examination before the magistrate, since the close of the preceding sessions, and what number are detained by the magistrate to give security.

5thly. To serve as a record from which the daily diet allowance of the prisoners may be ascertained; and to enable the magistrate to check improper charges on this account.

FORM No. 4.

This book is proposed to be given in charge to any one particular mohurrir of the Court, and is intended for the following purposes :—

1st. To prevent the occurrence of convicts being detained in custody after the expiration of the period of their sentence, from the negligence or inadvertency of the native officers.

2dly. To supply what is now wanting, namely, a register of convicts who may effect their escape, and which may enable a magistrate to ascertain the names of persons, who may have escaped previous to his taking charge of the district, without being dependant for such information on the officers of the Court, by

whose connivance escapes are sometimes effected, and which may enable the magistrate to adopt proper measures for their *re-apprehension, at such period, as it is probable the persons who* have escaped, may have returned to their homes, under the idea,* that all pursuit or inquiry regarding them has ceased. —The proclamation usually circulated appears to be a mere form, which is seldom, I believe, attended to by the police darogahs, except within the zillah in which the convict may have effected his escape.

6. Should the Court be of opinion that any advantages will attend the general establishment of all or any of these forms of records, and deem proper to sanction and direct their adoption, it will, I conceive, be most convenient that they be kept in the Persian language; and it will likewise be proper that the books in which they may be kept, should be paged and signed by the magistrate, so as to prevent any alterations being made by the native officers.—There are other records and forms, probably of less importance than those noticed, but which are highly conducive to regularity in the business of the Courts, and which are very useful and necessary restraints against abuses; but the more minute arrangements which for such purposes it may be expedient to adopt, may, I conceive, be best determined on, and established by the magistrate.

7. I beg leave, however, to submit to the consideration of the Nizamut Adawlut, whether with a view to the more effectual control over the conduct of the police darogahs, it may not be expedient, that those officers be severally furnished with blank books, signed and paged by the magistrate or his assistant, for the purpose of recording therein the daily transactions at the thannas: such a record will, I apprehend, in many respects, be found highly useful; it will tend to the prevention of many irregularities on the part of the darogahs, and of the concealment of crimes from the knowledge of the magistrate; it will sometimes be the means of affording proof of misconduct or neglect of duty where no other evidence could be obtained, for a reference to this record will show what measures may have been taken by a police darogah on occasion of any crime of magnitude being reported at the thanna: and it will otherwise tend to ensure generally a more active and faithful discharge of their duties.

8. I am aware, that in some districts attention is paid to the establishment of proper restraints on the conduct of the native officers, and to such arrangements as are necessary to provide for the regularity of the business of the Court; but it appears to me desirable, that such arrangement should be general and uniform, for it will, I believe, generally be found, that where proper arrangements may exist, and where the magistrate may have established the means of inspecting and superintending the detail of

the business of the Court, the police of the district will be better regulated, crimes of every description will be less prevalent, and the business of the criminal Court less in arrear; nor so heavy as to preclude an equal portion of the time of the magistrate being bestowed on the duties of the civil Court. On the other hand, where all arrangement is neglected or left to the native officers, the business will commonly be found heavily in arrear; false and vexatious complaints will accumulate; individuals will be exposed to unnecessary hardship; abuses will prevail; and the time of the magistrate will be exclusively occupied in the fouzdaree Court without any perceptible reduction of the business, even though the effect of such exertions should not be purposely counteracted and defeated by his native officers.

9. By your letter dated the 22d November last, I was informed of the orders which the Court had been pleased to issue to the local magistrates, in regard to the future communication to this office, of the descriptions of the persons of offenders, who may be proclaimed under Regulation IX, 1808. It appears, however, to me, of importance, that I should be regularly furnished by the magistrates with the names and descriptions of convicts, who may break jail, or otherwise effect their escape before the expiration of the period of their sentences, that measures may be adopted in this office for their re-apprehension, or to discover the place of their retreat; and I therefore beg leave to suggest the expediency of orders being issued to the several zillah and city magistrates within the division of the Lower Provinces, to transmit to this office regularly the names and descriptions of convicts who may effect their escape, with any particulars that may be useful in leading to their discovery and re-apprehension.

Office of Superintendent of Police,
Dacca, 24th February, 1811.

No. 88.

To the Courts of Circuit.

May 2, 1811.

In continuation of the letter addressed to you under the orders of the Nizamut Adawlut, on the 10th January last, regarding the removal of certain convicts from the different zillahs within your division, to the jail of zillah Twenty-four Pergunnahs, I am directed by the Court of Nizamut Adawlut to request, that you will issue the necessary instructions to the several magistrates, to be careful not to forward to the presidency any persons who may be incapable of bodily labour, from age, sickness, or other infirmity; or who may have been exempted from bodily labour

by their sentences, or in consideration of their former rank and situation in life, under the circular orders of the Nizamut Adawlut, dated the 6th April and 10th August 1796, and 28th of March 1807.

No. 91.

To the Courts of Circuit,

July 16, 1811.

IT having been represented to the Court of Nizamut Adawlut, that a practice prevails among some of the magistrates, of paying the allowance, authorized by the regulations to be made to prosecutors and witnesses in attendance on the Courts of Circuit, indiscriminately to all of them; and that provision being expressly declared to be intended for indigent persons only, who may really be in need of such assistance, I am directed by the Court to desire, that you will issue the necessary instructions to the several magistrates within your division, for restricting, in future, the payment of the allowance in question, to such prosecutors and witnesses, attending the sittings of the judge on circuit, as are really indigent, especially, when they may not have been long detained from their usual occupations.

No. 93.

To the Courts of Circuit.

July 18, 1811.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information, and to desire you will communicate to the several magistrates within your division, for their information, and guidance, the accompanying extracts of letters from the Secretary to Government in the Judicial Department, under dates the 13th June and 4th August 1809, and 5th April 1811; relative to the employment of goindahs, as spies or informers, in aid of the police.

2. These instructions are circulated by order of Government, in consequence of a recent instance, wherein several persons were apprehended, and others proclaimed, on the vague accusation of two informers, who, on inquiry, were not able to establish any part of the charge preferred by them, and who, on examination, were not found to possess any personal knowledge of the facts charged by them.

3. The Court observe, that the oppressive consequences which in this instance, resulted from issuing process on the unsupported information of the goindahs, would have been obviated, by a due

regard to the provisions in Regulation IX. 1807, which, to warrant the issue of process, on criminal charges, by the magistrates or police officers, require that the truth of them be deposed to, either by the complainant, if attending and present at the commission, of the act complained of, or if not, by one or more persons present, or otherwise personally informed of the truth of the complaint. It is, indeed, provided in the latter part of Section 4. of the regulation above mentioned, that the rule therein prescribed, shall not be construed to restrict a magistrate from issuing process to apprehend a person suspected of having committed a heinous crime, or for whose apprehension sufficient cause may appear upon the report of a police officer, or upon any other credible information. But a just exercise of this discretion by the magistrates, would evidently require strong and sufficient ground of suspicion, or more credible information, than that of a common goindah, personally unacquainted with the truth of the facts represented by him. The Court further remark, that this discretion is not extended to the police darogahs.

4. You will enjoin the magistrates within your division, to be careful in observing the strictest adherence to the provisions of the regulation above mentioned; and especially, in receiving any criminal charge or information from a person known to be a goindah, or public informer, to be cautious not to issue any process against the accused, without satisfactory evidence of the truth of the accusation.

5. The manner in which it is deemed expedient to employ goindahs, as spies to discover the haunts of robbers, to watch their movements, and to convey intelligence to the magistrate of their operations, or designs, being fully stated in the accompanying instructions, the Court do not judge it necessary to enlarge further on this point. The Court direct, however, that the magistrates be enjoined not to intrust the execution of any criminal process to a goindah, nor to allow any authority whatever to be exercised, directly or indirectly, by any person of this description. Also, that the utmost vigilance be observed to prevent every possible abuse (especially with regard to confessions, and the finding of stolen or plundered property) in all cases wherein a goindah may be employed, or may have given information, or have interfered in any respect whatever.

6. The Court are of opinion, that the darogahs of police should be prohibited from giving any encouragement to professional goindahs, and from employing them in any manner, without the knowledge and express sanction of the magistrate. They should also be restricted from apprehending any person, without a regular charge, except in the cases expressly authorized by the regulations; or if any exception be allowed, to prevent escape, with respect to persons named by confessing prisoners as accom-

plices, (for the usual process against whom there is no express provision in the regulations,) the immediate seizure, without previous communication to the magistrate, in such instances, should be confined to persons of suspicious character, or who, there may be reason to believe, would abscond, if not apprehended before the orders of the magistrate could be received on a report of the circumstances of the case.

7. You will observe, from the 15th paragraph of Mr. Secretary Dowdeswell's letter of the 13th June 1809, in what manner the person whom the magistrates may think it expedient to employ as spies should be paid for their services ; and the Court direct me to add, that any requisite fixed allowances, which the magistrates may pay to such persons, should be charged in their contingent bills.—But any rewards for meritorious service which may be done by him, will come within the provision of Section 18, Regulation XVI. 1810.

Extract of a Letter from the Secretary to Government in the Judicial Department, dated the 13th June, 1809.

Par. 10. A great deal of misconception has existed, with respect to the means employed by Mr. Blaquiere in the apprehension of dacoits. Two distinct classes of people, the goindahs (informers) and the geerindahs (persons employed to apprehend), have been strangely confounded in the discussion which has taken place on this subject. This misconception is the more extraordinary, as their respective duties can scarcely be more clearly described than they are, by the use of the two very common Persian words, by which they are respectively designated.

11. The established duty of the goindahs is, to discover the haunts of the dacoits ; to watch their movements ; to mix with them occasionally, with the view of obtaining accurate intelligence respecting their operations and designs, for their employer ; to communicate to him the result of their observations and inquiries ; and finally, to point out to the geerindahs, who are usually regular police officers, the persons of the individuals whom the magistrate, in the discharge of his public functions, may order to be apprehended.

12. Another mistake equally palpable, appears to exist with respect to this question. It seems to have been supposed that Mr. Blaquiere is in the habit of issuing general warrants ; that is, of granting to his police officers a commission for the apprehension of suspected persons, without previously informing himself of their names, or taking any other means to identify the individuals. But from all the inquiries which have been made on the subject, it does not appear that Mr. Blaquiere ever issued a commission of this nature. At all events, goindahs ought only to be employ-

ed in the manner stated in the preceding paragraph. With respect to general warrants, (if they ever have been issued,) they should be altogether discontinued.

13. Of the efficiency of those agents, no doubts can reasonably be entertained. Long lists might be produced of criminals, whose apprehension is entirely ascribable to the services of goindahs; but not being a matter of official record, it may be sufficient for the present to notice the case of Gungaram, a notorious and atrocious offender of the zillah of Nuddea, who, by the uncommon skill of Mr. Blaquiere, and by his judicious employment of the agency of goindahs, was recently apprehended under an assumed name at Patna, at a distance of five hundred miles from the presidency.

14. It is an incontrovertible fact, that the darogahs themselves employ goindahs. Now it seems evident, that if they are to be employed at all, they must be less capable of committing abuse under the watchful eye of a gentleman of character, talents, and experience, than under the control of darogahs almost as unprincipled as themselves

15. Another point worthy of consideration is, that when goindahs are employed by Mr. Blaquiere, or the superintendent of police, they are paid in a much less exceptionable manner than when they are employed by the darogahs. In the former case, they receive a small monthly allowance for their immediate subsistence, and are rewarded for any particular duty according to the judgment which may be formed of their activity and fidelity by their employer, whether the persons apprehended through their means are convicted or otherwise. The darogahs, on the other hand, have no other means of remunerating the goindahs employed by them, but with a portion of the rewards paid under the regulations for the conviction of criminals. In such case it seems natural to conclude, that the darogahs will consult only their own avarice and the demands of the goindahs; and that they will listen little to the calls of justice and humanity, when evidence might be obtained through their means for the justification of individuals charged with the commission of public offences.

Extract of a Letter from the Secretary to the Government, in the Judicial Department, dated the 4th August 1809.

Par. 3. It does not appear clear to the Governor General in Council whether, by the suggested extermination of goindahs, and the discouragement of the old goindah system, the provincial Court of Moorshedabad mean only the abolition of the powers heretofore, sometimes so very injudiciously, granted to persons of that description, or whether they mean the entire suppression of spies and informers in the conduct of the business of the police.

4. In the former case, it is necessary to remark, that the Governor General in Council is impressed with the strongest sense of the dangers and mischief which might arise from the delegation of such powers to goindahs.—If, however, the provincial Court mean the uniform suppression of spies and informers in the conduct of the business of the police, the Governor General in Council desires that the provincial Court may be prohibited from issuing any orders to the magistrates to that effect.

5. The restrictions under which persons of that description should be employed, and the benefits which may be derived from their services, are stated in the orders of Government of the 13th June last.

Extract of a Letter from the Secretary to the Government, in the Judicial Department, dated the 5th April 1811.

PAR. 8. In the different discussions which have taken place respecting the employment of spies and informers, Government has not failed to inculcate the great circumspection which should be observed in the employment of those instruments, and in receiving the information which might be furnished by them.

PAR. 10. The Vice-President in Council deems it further necessary to desire, that if the magistrates generally are not already apprized of the mode in which spies and informers should be employed, they may be furnished with the necessary instructions on that point, as stated in my different letters to you on that subject.

No. 94.

To the Courts of Circuit.

July 25, 1811.

A REPRESENTATION having been made to the Court of Nizamut Adawlut, that considerable inconvenience is occasionally experienced by the magistrates, in consequence of the transmission of the original proceedings of the magistrates, without a copy being kept, in trials referred to this Court, I am directed to communicate to you the following instructions, and to desire, that you will circulate the same, for the information and guidance of the several magistrates within your division.

2. Whenever a magistrate may judge it necessary to take a copy of the whole, or any part of the original proceedings held by him, in a trial referrible by the Court of Circuit to the Nizamut Adawlut, either on account of some of the persons charged with the same offence not having been apprehended, or from any other cause, the magistrate is to make application to the judge holding the jail delivery, to be allowed to take a copy or extract of such

proceedings before the transmission of them to the Nizamut Adawlut, and the judge of circuit, unless in any particular instance the immediate transmission of the trial to the Nizamut Adawlut may appear to him indispensably necessary, is to comply with such application. The magistrate, having taken the copy or extract required by him, is to return the original proceedings without delay to the judge of circuit, who will then transmit the same, with the proceedings of the Court of Circuit, to the Nizamut Adawlut.

3, In cases wherein the judge of circuit may deem it necessary to submit the trial to the Nizamut Adawlut, without giving the magistrate an opportunity of taking a copy or extract of the proceedings held before him, the judge of circuit is desired to state the circumstance, in his letter accompanying the trial, to the Nizamut Adawlut, who will either take up the trial immediately, or will cause the magistrate to be furnished with the copy or extract desired by him.

No. 95.

To the Courts of Circuit.

August 1, 1811.

THE acting magistrate of zillah Twenty-four Pergunnahs having represented the necessity of his being furnished with information, relative to such of the convicts, as have been forwarded by the magistrates to the presidency, who may be of notorious and dangerous characters, I am directed by the Court to desire, that you will instruct the several magistrates in your division, as soon as possible after the receipt of these instructions, to point out to the magistrate such of the convicts of the above description, as have hitherto been removed from their district to the jail of Twenty-four Pergunnahs; and that they are to be careful hereafter, to furnish the magistrate of Twenty-four Pergunnahs with similar information, in respect to any other prisoners who may be ordered to be removed to the presidency, inserting such information in the descriptive statement already required to accompany them.

No. 96.

To the Courts of Circuit.

August 15, 1811.

I AM directed by the Court of Nizamut Adawlut to transmit to you for your information, and to desire that you will communicate to the several magistrates within your division for their information and guidance, the enclosed extracts from the resolutions of the

Nizamut Adawlut, under date the 13th June last, on a report from Mr. W. E. Rees, late officiating judge of the Calcutta Court of Circuit, and an extract from the orders of Government thereupon, contained in a letter from the Secretary in the Judicial Department, dated the 16th ultimo.

2. You are further desired to instruct the magistrates to furnish their police officers with the necessary orders, prohibiting their taking sooruthauls with a view to the ascertainment of character; except in the cases provided for by the third Clause of Section 2, Regulation VII. 1811.

Extract from Resolutions of the Nizamut Adawlut, passed on the 13th June 1811.

PAR. 11. The Court observe, that the only sooruthauls authorized by the existing regulations, are those prescribed on occasions of unnatural deaths or violent crimes, by Section 9, Regulation IV. 1797, (extended to the ceded provinces by Section 25, Regulation XXXV. 1803,) and Section 18, Regulation IX. 1807, and on prisoners charged with crimes of magnitude being brought before the police officers, by Section 17, Regulation IX. 1807. But in these cases, the police officers are not required, nor can it be necessary for them, to take the depositions of the witnesses separately, but merely to state the general result of their inquiries on the points noticed in the said provisions; that the police officers are not warranted by Section 9, Regulation IV. 1797, and Section 18, Regulation IX. 1807, in examining persons on oath, and are expressly prohibited from that mode of examination, in the proceedings which they are required to hold by Section 17, Regulation IX 1807; that by this last Section they are also positively enjoined, without any discretion, not to detain any prisoners for the purpose of making the inquiry therein directed, for a longer period than 48 hours after their arrival at their thannas.

12. With these limitations, supposing a due vigilance on the part of the magistrates, in controlling their police officers, the Court do not apprehend that the abuses mentioned as consequent upon the sooruthauls in question can be general or prevalent.

13. The occasional danger of false sooruthauls, the Court remark, must be admitted. But they observe at the same time, that if police officers or others have sufficient influence to procure the concurrence of prosecutors and witnesses in such criminal practices, and such attempts are not baffled by the vigilance of the magistrates and Courts of Circuit, there seems little reason for trusting that such combinations could be prevented by the abolition of sooruthauls. If on the other hand, false sooruthauls are fabricated without the participation of prosecutors and witness-

as, the risk of detection must be so great, that such attempts would not often, it seems reasonable to suppose, be hazarded by the police officers.

14. The danger of sooruthauls discrediting the testimony of witnesses, who may vary from the statement contained in those instruments, is urged by the officiating Judge. On this point it may be remarked, that the sooruthaul is to be used as a clue to investigation, and a useful check upon witnesses, and not as conclusive evidence; that any variation from essential facts reported in the sooruthaul will naturally create hesitation, but that with the charge and defence, and all the evidence of which the case admits, before the Court of Circuit, the Judge will be enabled, in general, to form a satisfactory opinion, whether any variations of this nature are to be ascribed to the falsehood, or to the inaccuracy of the sooruthaul, or of the witnesses on the trial; that, however, when doubts may occasionally remain, they must operate on the side of mercy and in favour of the accused.

15. The identifying prisoners before the magistrate and Court of Circuit, as present at the commission of crimes, though the witnesses failed to name such prisoners before the darogah, is usually the most important contradiction which occurs; and this, as noticed by the officiating Judge, is pointed out in Section 18, Regulation IX. 1807, as a circumstance tending to discredit witnesses.—The Court remark, that the dangerous habit to which the natives are liable, of substituting information and suspicion for evidence, renders it always desirable that they should mention the persons whom they may have recognised, as early as possible after the commission of the crime, and before they have had time to receive impressions which might bias their testimony, but that their silence before the darogah will often admit of a satisfactory explanation; that, accordingly, in several of the Nuddea trials, the witnesses having, before the magistrate and Court of Circuit, identified prisoners as present at robberies, though they had previously, before the police darogah, disclaimed having recognised any person, and having accounted for the contradiction by the state of the district which exposed persons giving information against robbers to be murdered, this explanation was admitted by the Court, to repel the presumption against their credit. The written examination of prisoners, forming a part of the sooruthaul, the atrocious practice of extorting confessions, mentioned by the officiating Judge in the 16th paragraph of his report, occurs as a further objection to these inquiries before the police darogahs. The knowledge of the existence of those detestable practices, must naturally suggest extreme circumspection with respect to these confessions; and the Court remark, that no effort has been spared by this Court and the Government, to inculcate this caution on the magistrates and Courts of Circuit. But the Court are at

the same time of opinion, that the examination of persons charged with crimes of magnitude, is so necessary to enable the police officers to detect accomplices and recover stolen property, that they could not safely be dispensed with. The Court must also remark, that although confessions before the police officers are in general of slight authority, they not unfrequently contain strong internal evidence of truth, and afford a usual clue to important collateral evidence.

16. The little dependence, unhappily, to be placed in this country, on the truth and accuracy of positive testimony, renders it often essential that charges should be supported by collateral evidence, and that the Courts of justice should, for that end, be enabled to trace occurrences from their origin, and be in full possession of all their attendant facts and circumstances. It appears to the Court, that no better means of procuring this information could be devised than inquiries held on the spot, immediately after the commission of the acts which have called for judicial cognizance, when the minds of the witnesses are yet unbiassed, and while their memory of the event is fresh, and is aided and excited by all the surrounding objects. Granting that proceedings of this nature may occasionally be perverted to sinister purposes, the general tenor of them must, in the judgment of the Court, be favourable to truth and justice.

17. It appears to the Court, that the proceedings before the magistrate, which Mr Rees wishes to substitute, would ill supply the loss of the local inquiry. Those proceedings will always be held at a distance from the spot, and too often, the Court apprehend, after a considerable delay. The Court cannot doubt that the sooruthauls are of great use to the magistrates, in investigating the cases brought before them; and the Court must add, that they themselves often derive important information from them, not to be found on the proceedings of the magistrates.

18. In addition to the foregoing considerations, it is also to be remembered, that the necessity of keeping a written minute of these proceedings, must operate as a great check on the conduct of the police officers, and that such a record will frequently be indispensable to explain and justify their acts; as for instance, in the apprehension of offenders, and the search for stolen property.

19. Another objection advanced by the officiating judge is, that sooruthauls are commonly attested by people of the lowest orders; that the great unwillingness of respectable persons to attend the Courts as witnesses, induces them to purchase an exemption from this duty; and that the sooruthauls have become an instrument of extortion in the hands of the police officers. The Court feel themselves obliged to notice, that the plan which the officiating judge has suggested, seems equally liable to the same abuse. He proposes, that on the commission of a crime, the police

officer, shall ascertain and send in to the magistrate such persons as may have been present when the occurrence happened, or may be acquainted with the circumstances of the case. The discretion here proposed to be allowed the darogahs, would evidently afford an equal opening for extortion with the existing rules.

20. By Section 11, Regulation IX. 1793, the functions of the police officers, with respect to criminal cases of magnitude, were confined to receiving the charge and apprehending and sending in the accused to the magistrate. This rule was strictly enforced by the Nizamut Adawlut from time to time, and in particular, confessions taken by the police officers in opposition to it, were excluded from being given in the Courts as evidence, by a circular order of the Court dated the 4th May 1797. The inconvenience, however, which was found to result in practice from those restrictions, led to the provisions in Regulation IX. 1807, against which the objections of the officiating judge are directed, and which were proposed by this Court to Government. The provisions in question, therefore, may be said with truth to have been forced upon this Court by an extensive experience, in opposition to existing regulations, founded upon the salutary general principle of trusting the native officers with the least possible power. These considerations, in the judgment of the Court, serve to show that a strong necessity was perceived to exist for enacting the provisions in question, and to demonstrate in consequence, that they ought not to be abandoned but on great deliberation.

21. In recording these sentiments, the Court must at the same time profess their readiness to give their serious attention to any modifications which may be submitted to them, for the important end contemplated by the officiating judge, in the plan which he has suggested, of imposing checks upon the police officers, calculated to prevent abuses without impairing the energy of the police, or shutting out the Courts of justice from indispensable sources of information.

22. In the foregoing remarks, the Court have had no reference to sooruthauls for ascertaining characters, respecting which the regulations are silent. The Court presume, that they have been introduced chiefly with the view of saving the people, as far as possible, an attendance on the Courts,—certainly a very desirable object. On the other hand, these inquiries seem peculiarly liable to abuse. The safe medium would be to restrict the police officers from holding these inquiries, except by special orders from the magistrates: should the report be favourable, justice to the prisoner would require that a certain number of the witnesses should be examined by the magistrate or Court of Circuit; but if favourable, it might in general be admitted, the magistrate and Court of Circuit having of course a discretion of summoning witnesses, if any circumstances should appear to render that step expedient.

Extract of a Letter from the Secretary to Government, in the Judicial Department, under date the 16th July 1811.

PAR. 6. Adverting to the observations contained in the 22nd paragraph of the Court's resolutions, the Vice-President in Council doubts whether the native officers of police should be allowed to take sooruthauls, with the view of ascertaining the characters of prisoners. Information so obtained cannot be deemed sufficiently authentic to serve as a proper ground for any decision by the Court of Circuit or the magistrate: on the other hand, the practice itself is not recognised by the regulations, and, as noticed by the Court, is liable to great abuse. Under these circumstances, it appears to Government, that it should be prohibited generally, with exception however, of course, of the cases noticed in Clause third, Section 2, Regulation VII. 1811.

No. 97.

To the Several Magistrates.

August 22, 1811.

THE acting magistrate of zillah Twenty-four Pergunnahs having, in consequence of the unhealthy state of the prisoners confined in the Allipore jail, suggested the propriety of convicts who may be ordered to be removed to the presidency, being sent so as to arrive in Calcutta in the beginning of November: I am directed by the Court of Nizamut Adawlut to desire, you will attend to this suggestion in future, as far as circumstances may render it practicable.*

No. 101.

To the Courts of Circuit.

September 5, 1811.

It has been suggested to the Nizamut Adawlut, that it would afford useful information to the law officers of the Courts of Circuit, if they were furnished with the futwas delivered by the law officers of the Nizamut Adawlut, in trials decided by that Court; and the Court, entirely concurring in the expediency of the measure, direct me to acquaint you that they have resolved upon the general adoption of it in future. An attested copy of the futwa of the law officers of this Court, will accordingly hereafter accompany the sentences or orders passed by the Nizamut Adawlut on all trials decided by them.†

* See No. 106.

† See Nos. 104, 105 and 185.

The Court having observed in several trials referred to them, that the futwas of the law officers of the Court of Circuit are not sufficiently explicit, frequently declaring the prisoner liable to discretionary punishment, without stating the specific crime of which he is convicted, I am directed to take this opportunity of desiring, that you will require the law officers of your Court, to be careful in the futwas delivered by them in future, to specify the crime which they consider to be established against any prisoner or prisoners, declared liable to punishment; whether the conviction be founded on full legal proof, or on presumptive evidence.

No. 102.

To the Courts of Circuit.

September 24, 1811.

As it is frequently difficult, from inaccuracy in writing the names of prisoners in the Persian character, in trials referred to the Nizamut Adawlut, to ascertain correctly what the names are, and as it sometimes happens that the judges of circuit, in their letters accompanying the trials, do not specify the names of all the prisoners, in English, I am directed by the Court of Nizamut Adawlut to desire, that you will make it a rule, in future, to write the names of all the prisoners, whose trials may be referred by you to the Nizamut Adawlut, in the margin of the letters accompanying the trials, in English, in the order in which they may be brought forward for trial.*

No. 104.

To the Courts of Circuit.

November 15, 1811.

The Court of Nizamut Adawlut having observed that in the futwas of some of the law officers of the Courts of Circuit, the crime of robbery by open violence, as defined in the first clause of Section 3, Regulation LIII. 1803, is denominated by the ambiguous term *Gharutguree* which might be applied to acts of plundering, distinct from robbery, I am directed to desire you will caution your law officers not to use the above term in future, when it may be their intention to convict the prisoner of the crime of robbery; which, as noticed in the Section and Clause above referred to, is designated, in the Mahomedan law, by the term *Surka i Koobra*; and more commonly *Shub Khoonee*, or *Dukytee*; unless it be a robbery on the highway, in which case it is usually called *Kuta oot tureekee.*

* See No. 126 and No. 54 Part II paragraphs 9, 10 and 11, and No. 135 Ibid. paragraph 3.

2. The Court further desire, in addition to their circular instructions of the 5th September last for stating in the futwa the specific crime considered to be established against every convicted prisoner, that your law officers will be careful to use the proper term, which has been appropriated in the Mahomedan law, or by usage, to designate the offence of which the prisoner is convicted.

No. 105.

To the Courts of Circuit.

December 4, 1811.

The Court of Nizamut Adawlut being frequently at a loss to ascertain the ages of prisoners with any degree of accuracy, in trials referred for their decision by the Courts of Circuit, in consequence of the uncertainty often expressed by the prisoners themselves, with respect to their ages, and of the different accounts often given by them on that head, I am directed to desire, that you will make it a rule, in future, in all trials referred by you to this Court, whenever you may have reason to believe, that a prisoner has stated his age inaccurately, to specify, on the record of the trial, your opinion of the apparent age of the prisoner.

No. 106.

The Chief Secretary to Government to the Superintendent of Police in the Western Provinces.

December 10, 1811.

Circulated through the Courts of Circuit, on the 20th of December 1811.

Par. 6. In the 26th paragraph of your letter, you observe, that there are 78 persons "under sentence of temporary imprisonment with hard labour, whom it would be advisable to have sent to the workhouse at Calcutta." The Governor General in Council is perfectly sensible of the advantages, which the general police of the country has experienced from withdrawing persons of dangerous character from the zillah and city jails. Some limitation should, however, be established with respect to this practice. His Lordship in Council conceives that persons should not be sent to Calcutta from the divisions of Bareilly and Benares, who may have been sentenced to imprisonment for a shorter period than fourteen years, nor from the other divisions who have been sentenced to imprisonment for a shorter period than seven years. His Lordship in Council further observes, that convicts, when-

ever they may be ordered to the presidency from the Western Provinces, including the province of Behar, should uniformly be sent so as to arrive during the cold season, or in the early part of the south east monsoon, in order that their constitutions may be habituated to the climate of Bengal, previously to the commencement of the periodical rains. These remarks will be communicated to the Nizamut Adawlut, with the request of Government, that due attention be given to them as often as orders may be issued by them for sending prisoners to Calcutta, who may not be liable to imprisonment for life in the jail at Allipore under Regulation XIV. 1811.

No. 107.

To the Courts of Circuit.

December 26, 1811.

I AM directed by the Court of Nizamut Adawlut, to transmit for your information and guidance, the accompanying extract of a letter from Mr. Secretary Dowdeswell, under date the 17th instant. To the first part of this extract, I am desired to direct your future attention; and with respect to the latter part, to request that you will make the necessary communication to the several magistrates within your division.

Extract of a Letter from the Secretary to Government in the Judicial Department, dated the 17th December 1811.

PAR. 2. It is observed generally in Mr. Campbell's letter, that "he had found the jails, at the different stations, in very excellent order, &c." but the Governor General in Council requests, that the judges of circuit may be directed to furnish, at the close of the periodical circuits, a more detailed report on the state of each of the jails inspected by them. It will occur to the Nizamut Adawlut, that too great attention cannot be given to an object affecting, in so material a degree, the health and reasonable comforts of the prisoners. The Nizamut Adawlut will be further sensible, that even in the best constructed jail, the most serious consequences may be experienced from want of due attention to cleanliness in the wards; and the Governor General in Council will hold any of the magistrates highly reprehensible, who may be inattentive to this important part of his public duty.

No. 112.

To the Courts of Circuit and Magistrates.

May 7, 1812.

The Court of Nizamut Adawlut direct me to transmit for your information and guidance, the accompanying copy of a letter from the Secretary to Government in the Judicial Department, dated the 25th ultimo, together with copy of the letter to the late acting magistrate of zillah Behar, therein referred to.*

To the Register of the Nizamut Adawlut, April 25, 1812.

I am directed to desire, that you will lay before the Nizamut Adawlut, the accompanying copy of a letter this day written to Mr. T. Sisson, the late acting magistrate of Behar, and acquaint the Court, that the Right Honorable the Governor General in Council desires, that they will communicate generally the sentiments expressed in it to the Courts of Circuit and to the magistrates, for their information and guidance.

(COPY.)

To Mr. T. Sisson,

April 25, 1812.

Sir,—I am directed by the Right Honorable the Governor General in Council to acknowledge the receipt of a letter from you, dated the 22d instant.

2. The Governor General in Council does not deem it necessary to suspend his orders regarding the publication, to which your letter refers, until further inquiries can be made for the purpose of ascertaining the precise number of Pindarees, who are computed in it to have invaded the British territories. It is sufficient to remark on that point, that whether the estimated number was 10,000, 12,000, or 15,000, it was in either case vastly exaggerated.

3. The Governor General in Council doubts not, that you were actuated by the properest motives in issuing the publication in question. His Lordship in Council is at the same time of opinion, that the terms of it, instead of being calculated to infuse among the people a confidence in their own strength and exertions, and to excite a spirit of resistance to the plunderers, agreeable to your laudable intention in issuing it, had on the contrary a tendency to create only discouragement and alarm.

* See No. 264.

4. It is intimated in your letter, that none of the zemindars would have ventured to have entertained armed men for the purpose of repelling the Pindarees, without the authority of the magistrate: but supposing such authority to have been requisite, and the circumstances of the moment to have rendered it advisable to grant it, the Governor General in Council would have supposed that you could have experienced little difficulty in furnishing them with the required authority, in a form and in terms free from the objections to which the publication in question (as already noticed) is subject.

5. The Governor General in Council takes this occasion to inculcate the propriety of great caution and reserve in addressing publications of a general nature to the inhabitants of the provinces, and his Lordship in Council considers it extremely desirable, that the magistrates should refrain from such measures, without the sanction of Government, when such sanction can be obtained without material public inconvenience or at least without the knowledge and concurrence of the nearest local authority to which they are subject, viz the Courts of Circuit, or the political agents of the Governor General, in cases suited to such a reference. The Governor General in Council is sensible that emergencies may arise which may render even the delay of a reference to the Court of Circuit inconvenient and objectionable, but in all practicable cases he desires that such reference may be made; and that when the time will admit of it, the case may be invariably submitted for the decision of Government itself.

6. A copy of this letter will be transmitted to the Nizamut Adawlut, in order that the sentiments expressed in it may be communicated generally to the Court of Circuit and to the magistrates.

No. 115.

To the Courts of Circuit.

July 9, 1812.

In several cases, included in the abstract statements of prisoners punished by the judges of circuit, at the half-yearly, quarterly, and monthly jail deliveries, without reference to the Nizamut Adawlut, the Court have been under the necessity of calling for the futwa of the law officer, and information from the judge of circuit presiding at the trial, respecting prisoners stated to have been convicted of receiving and purchasing stolen or plundered property, with a view to ascertain, whether the sentences passed in such cases, have been founded on a conviction of the prisoners having received or purchased such property, "knowing the same to have been stolen or procured by robbery," so as to render the

prisoners punishable for the offences in question, under the provisions of Regulation I. 1811.*

2. The explanations received, as well as the futwas of the law officers of the Court of Circuit, in answer to such references, having in several instances not been sufficiently satisfactory and conclusive on a point so essential to a due conviction of the prisoner, the Court judge it necessary to desire, that you will be particularly careful in future to require your law officers to state specifically in their futwas declaring any persons to be convicted of receiving or purchasing stolen or plundered property, that such persons are convicted of having received or purchased such property "knowing the same to have been stolen, or procured by robbery."

3. You are further desired to insert the same specification in your abstract statements, respecting all persons convicted of the offences stated, and sentenced to punishment under the provisions of Regulation I. 1811.

No. 116.

To the Courts of Circuit.

August 21, 1812.

I AM directed by the Court of Nizamut Adawlut, to communicate to you for your information, and to desire, that you will circulate for the information and guidance of the several magistrates within your division, the following rules in addition to the printed rules for the better management of the jails, which were passed by Government on the 8th February, 1811, (No. 3).

1st. All prisoners detained in custody for security only, more especially such as may not be confined as notorious robbers or on suspicion of robbery, to be kept, as far as possible, distinct from prisoners convicted of specific offences.

2d. Prisoners generally of the description above referred to, are to be confined without fetters, except when the magistrate may judge the use of them requisite to prevent the escape of particular prisoners, and in such case the magistrate shall issue a written order, for that purpose to the jailor.

PAR. 2. In the 18th Section of the 2d article of the jail rules, it is directed "that all prisoners ordered to be discharged, shall be brought to the magistrate's cutcherry, and receive their discharge in the presence of the magistrate or his assistant."

3. In addition to this rule, the Court direct that all prisoners discharged by the magistrate or his assistant, be furnished with the certificate or roobakaree under his official seal and signature, specifying the following particulars, viz. 1. On what ground, or

* See Nos. 124 and 215.

charge, the prisoner was apprehended, and at what period. 2. The result of any inquiry made respecting the prisoner, and if brought to trial on any specific charge, the result of such trial, and the sentence passed upon him, together with the execution of the sentence, if he have been convicted and punished. 3. The order for the prisoner's discharge by whom passed, and on what date, and if security have been given by the prisoner for his future appearance, or good behaviour, the names of his sureties, and amount in which they are bound respectively.

No. 117.

To the Courts of Circuit.

September 9, 1812.

The Court of Nizamut Adawlut still observing several inaccuracies in some of the abstract statements of sentences passed without reference to them at the monthly, quarterly, and half-yearly jail deliveries, required to be submitted by the orders of Government forwarded with a circular letter under date the 17th May, 1809*, I am directed by the Court to communicate to you for your information and guidance, the following observations and orders, in addition to those contained in my letter of the 9th July last †.

2. By Clause sixth, Section 2, Regulation LIII. 1803, it is provided, that no punishment whatever shall be inflicted upon suspicion only, (termed by the Mahomedan lawyers *wuhm, shuck* or *shoobuh e zueefu,*) when the evidence against the prisoner is undeserving of credit, or the presumption of his guilt arising from credible testimony, or circumstantial evidence, is weak and does not amount to the degree of strong and violent presumption held sufficient for conviction, and recognized as such in the Mahomedan law, under the denominations of *ghalib e zun, ukber o rae,* or *shoobuh e kuwee,* or *shudeed.*

3. Under this provision, that Court remark that in all cases wherein the futwa of the law officer shall declare the evidence against a prisoner to amount to the degree of strong violent presumption, such as to authorize a sentence of punishment, the Judge passing the same should specify, under the head "crime established," the offence of which the prisoner has been convicted, and that he has been convicted on violent presumption. Whereas, whenever a prisoner shall be declared by the futwa convicted on full legal proof, the same should be also specified in the statement.

* See No. 6. † See No. 115.

4. You are at the same time desired to make it an invariable rule, to require a more specific futwa from the law officer as to the nature and degree of *shoobuh* established against a prisoner, whenever the original futwa in the case may be doubtfully expressed.

No. 121.

To the Courts of Circuit.

March 11, 1813.

The Court of Nizamut Adawlut have had occasion to remark, that a very considerable delay frequently occurs, in carrying into effect orders on trials referred back by the Court, for additional evidence or further inquiry and information, particularly in a case which has recently come under the observation of the Court, wherein a period of nearly two years elapsed, before the further proceedings ordered to be held were completed by the magistrate.

2. The Court considering therefore the serious inconvenience and hardship to which the parties in such cases may be subjected, more especially the accused, who may ultimately, as in the instance above alluded to, be found innocent of the charge pending against him, direct me to request, that with a view to prevent delays of a similar nature in future, you will be particularly careful on the commencement of the session of each station, to call on the magistrate of the district, to lay before you all cases which may have been referred back by the Nizamut Adawlut for further inquiry or information, as also all trials which may have been postponed at the preceding session of such district by a judge of your Court; and that you will immediately proceed on trials of this description, supposing of course the further investigation to have been completed by the magistrate, and the trials to be in every respect ready, in preference to the cases included in the magistrate's regular calendar, forwarding such as may be referrible to the Nizamut Adawlut, with the least practicable delay.

3. In the event, however, of the magistrate not having held the further inquiry required, either under the orders of the Nizamut Adawlut, or of your Court, you are requested to call upon him for an explanation of the cause of delay. In all cases which have been referred back for further inquiry or information by the Nizamut Adawlut, you will forward the magistrate's explanation to this Court, with your opinion of the sufficiency or otherwise of the same, for the information and orders of the Court. You will also make a similar report to the Nizamut Adawlut, in cases which may have been referred back by the Court of Circuit, whenever you may consider it necessary to bring the magistrate's conduct on the occasion under the notice of the Court.

No. 122.

To the Several Magistrates.

March 11, 1813.

THE Court of Nizamut Adawlut, having reason to believe, that several of the Magistrates consider themselves required to confine all convicted prisoners indiscriminately in fetters, without reference to the nature of the offence of which the prisoner may have been convicted, or to his former condition in life, direct me to acquaint you, that in all cases, wherein no specific orders may have been issued, either by the Nizamut Adawlut, or Court of Circuit, for the confinement of a prisoner with or without irons, you are at liberty to exercise your own discretion, and to direct the prisoners to be confined in fetters or not, according as the same shall appear to you proper or necessary for his safe custody, from the nature and circumstances of the case, considered with the prisoner's rank and former condition in life.*

No. 124.

To the Courts of Circuit.

August 12, 1813.

SEVERAL cases in the abstract statements of the sentences passed by the judges of the Courts of Circuit, without reference to the Nizamut Adawlut, leading the Court to apprehend that the provisions contained in Sections 7 and 8, Regulation I. 1811, may in some instances have been applied to persons convicted of having in their possession property obtained by theft or robbery, afterwards knowing the same to have been so obtained, although ignorant of it at the time when the property came into their possession, I am directed by the Court to acquaint you, for your information and guidance, that the said provisions are only applicable to cases wherein it shall appear, that the person convicted knew that the property was obtained by theft or robbery, at the time of receiving or purchasing the same. You are accordingly desired to observe the distinction above noticed between the two offences in question, and to specify the same in your future abstract statements.

3. The Court direct me to add, that a prisoner convicted of the offence of having possession of property obtained by theft or robbery, knowing the same to have been so obtained, at a period of time subsequently to the property coming into his possession, is of course punishable by the Mahomedan law and the existing regulations.†

* See No. 217, paragraphs 7 and 8. † See No 215.

No. 125.

To the Courts of Circuit.

October 22, 1813.

The serious attention of the Nizamut Adawlut has recently been drawn to the highly objectionable practice, resorted to by a judge of circuit, of holding more than one trial at the same time.

2. The Court are fully persuaded, that this practice, so wholly unauthorized by the regulations, has not frequently occurred; but as more than one instance has come to the knowledge of the Court, they deem it incumbent on them expressly to prohibit the practice in future.

No. 126.

To the Courts of Circuit.

January 27, 1814.

It being the intention of the Nizamut Adawlut, in all future cases of capital conviction, to observe the additional precaution of inserting in their sentences the name of the father of the convict who may be adjudged to suffer death, I am directed to request that, for the reasons stated in my letter under date the 24th September 1811, you will be careful in referring any trials, wherein one or more of the prisoners may be liable, under the regulations, to a sentence of death, to specify in English the name of such prisoner's father in the margin of the letter accompanying the proceedings.

No. 134.

To the Several Magistrates.

June 30, 1814.

I am directed by the Nizamut Adawlut to transmit to you the accompanying copy of a letter from the superintendent of police for the Lower Provinces, dated the 26th instant, with copies of the forms therein mentioned.

2. The forms in question having been found useful, the Court desire that you will adopt them in substance, with any modifications that may be suggested by experience.

(COPIES)

To the Register of the Nizamut Adawlut.

Chinsurah, June 26, 1814.

I have the honour to acknowledge the receipt of a circular letter from you, dated the 26th ultimo, prescribing rules for bringing at

regular periods the sickness prevalent in different jails and hospitals, under the consideration of the Medical Board.

2 The above subject has brought to my recollection two forms introduced by the magistrate of Rajeshahye, which I consider well calculated for aiding the object proposed by the circular orders of the Court of Nizamut Adawlut, and likewise for bringing daily under the observation of the magistrates, the actual state of their jails.

3. It is customary in most districts, for the jailor, the native doctor, and the officer commanding the jail guard, to attend the magistrate in the morning, and to furnish a verbal report regarding their respective departments.

4. The accompanying forms, which are in English, may be filled up daily by an English writer, without delay or trouble, from a similar statement to be kept in the native languages by the jailor and native doctor, who should be required to present the English report to the magistrate every morning on the opening of the Court.

5. These statements are adapted to afford a distinct view of the jail and hospital, to check abuses, and at the same time to form a useful record of office. I venture therefore to submit them to the superior Court, with a recommendation, that they may be prescribed for general observance.

Report of Prisoners in the jail of Zillah ——, for the month of——.

	NIZAMUT ADAWLUT.				COURT OF CIRCUIT				MAGISTRATE.						
Date.	Perpetual imprisonment	Ditto temporary.	Security required.	Referred.	Temporary imprisonment.	Security required.	Mad.	Postponed.	Temporary imprisonment	Security required.	Mad.	Committed.	To be tried.	Dewanny Prisoners.	Total.

Daily Hospital Report for the Month of

Date.	Patients brought in.	Total.	Died.	Discharged.	Remaining.

No. 137.

To the Courts of Circuit.

August 3, 1814.

INSTANCES having occurred of persons committed for trial before the Court of Circuit, either standing mute, or exhibiting symptoms of mental derangement on their trial before the Court of Circuit, I am directed by the Court of Nizamut Adawlut to desire, that you will instruct the several magistrates within your division, in any instances which may be brought before them, in which a prisoner committed for trial before the Court of Circuit may, previously to his trial, show any symptom of being deranged in mind, to cause the prisoner to be occasionally examined by the surgeon of the station, with directions to make such inquiries respecting the prisoner, as may be necessary to enable him to form an opinion on the state of the prisoner's mind; and in case of the prisoner's being mute, whether he is mute from obstinacy, or from any real impediment of speech, or affection of mind.

2. The Court further desire, that in all such cases the judge of Circuit, by whom the prisoner may be tried, will take the deposition of the surgeon of the station on oath, on the points above mentioned; at the same time requiring him to state the grounds of the opinion delivered by him, and recording the deposition, with Persian translation of it, upon the proceedings held on the trial.

3. You will also instruct the several magistrates within your division, in cases of the above nature, in which a prisoner may be brought to trial before the Court of Circuit, to have in attendance on the Court of Circuit, a sufficient number of any other witnesses besides the surgeon, who may be able to depose to the prisoner's previous state of mind; or, with respect to dumbness, its previous existence, or otherwise, in order that their evidence may be taken by the judge of circuit.

I am further directed to transmit to you, for your information and guidance, the enclosed copy of the Court's orders, dated the 22d July 1813, in answer to a reference from the third Judge of the Dacca Court of Circuit, respecting a prisoner stated to be both deaf and dumb. In instances, however, in which a prisoner may appear to be dumb, but not deaf, and apparently in a sane state of mind, (a case of which nature has been recently before the Court,) the judge of circuit before whom the trial may be held, will be generally able, from the signs and tokens of the prisoner, in answer to questions put to him, to complete the trial in a regular and satisfactory manner.

To the Dacca Court of Circuit.

July 22, 1813.

I am directed by the Nizamut Adawlut to acknowledge the receipt of a letter from your third judge, dated the 10th instant, respecting the trial of a prisoner who is stated to be both deaf and dumb.

2. Presuming the fact of the prisoner's entire disability to hear or speak to have been well established, the Court are of opinion, that inquiry should be made among the relations and friends of the prisoner, with a view to ascertain whether any of them have been in the habit of communicating with him by means of signs and tokens; and should it appear that any person is able so to interpret between him and the Court, it will be proper to employ such person as an interpreter, previously swearing him to interpret truly between the prisoner and the Court.

3. But at all events the Court are of opinion, that the prisoner should be brought to trial for the offence with which he stands charged; and, if it should be found impracticable by any means to convey intelligence to him, it will be incumbent on the judge, before whom the trial is held, to inquire for, and take, all evidence which the circumstances of the case may indicate for the prisoner's defence; and carefully ascertain, and record, every point which may make in his favour.

4. You are requested to communicate a copy of this letter to your third judge for his information and guidance.

No. 138.

To the Several Magistrates.

August 9, 1814.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information and guidance, the accompanying copy of a letter, addressed by order of the Court, to the chief Secretary

to Government, on the 27th ultimo; and copy of a letter from the Chief Secretary in reply, dated the 2d instant.

To the Chief Secretary to Government.

July 27, 1814.

I am directed by the Court of Nizamut Adawlut to request you will lay before the Honorable the Vice-President in Council, the accompanying copy of a letter from the senior Judge of the Court of Circuit for the division of Dacca, dated the 14th instant, with copies of its enclosures.

2. The reports which the zillah and city surgeons are required to make on the state of the hospitals and jails, do not appear to the Court to require the exclusive occupation of a native officer to assist them in the performance of that duty: and the Court conceive, that in general the establishments of the judges and magistrates would be found sufficient to admit of one of their mohurrirs or writers performing any duties of the nature mentioned in Mr. Todd's letter.

3. The Court therefore beg to suggest, instead of allowing a writer or mohurrir for the surgeon of each station, the expediency of orders being issued to the several magistrates, directing them to give the assistance of the writers and mohurrirs on their establishment, as far as may be necessary to enable the surgeons to prepare the periodical reports required of them, applying in the usual course, if any addition to their fixed establishment should at any time be requisite on this account.

To the Register of the Nizamut Adawlut.

August 2, 1814.

I am directed to acknowledge the receipt of a letter from you, dated the 27th ultimo, with its enclosures, and to desire, that you will acquaint the Court, that, on the ground stated in the 2d paragraph of your letter, the Honorable the Vice-President in Council desires, that they will issue the necessary orders to the several magistrates, directing them to give the assistance of the writers and mohurrirs on their establishment to the surgeons, to enable them to prepare the periodical reports required of them, on the state of the hospitals and jails.

No. 139.

To the Courts of Circuit.

August 13, 1814.

Instances frequently occurring, in which examinations of prisoners, and other proceedings held before the magistrates, and by police darogahs, only specify the date and month of the Christian

era, I am directed by the Court of Nizamut Adawlut to desire, that you will instruct the several magistrates within your division, to observe it as an invariable rule, to specify, in all examinations taken, and proceedings held by them, the date and month of the era, current in their respective jurisdictions, as well as of the Christian era, on which the examinations are taken and proceedings held You will at the same time desire them to instruct the police darogahs under their authority respectively, to make it an invariable rule to specify the date and month of the era, current in their several jurisdictions, on which all examinations are taken, and proceedings held by them.

I am further directed to desire, that you will consider the foregoing instructions to the magistrates, as applicable to your own proceedings.

No. 140.

To the Courts of Circuit.

September 6, 1814.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information, and for the information and guidance of your Mahomedan law officers, the enclosed extract from the resolutions of the Court under date the 24th ultimo, on the subject of a reference from the fourth Judge of the Calcutta Court of Circuit, respecting the futwas of the law officers of that Court, declaring persons convicted of theft on two or more distinct commitments liable to punishment in one of the cases only.

Copy of the futwa referred to in the 6th paragraph of the Court's resolutions accompanies.

Extract from the Resolutions of the Court, under date the 24th August, 1814.

PAR. 6. The Court have reason to believe, that the rule of Mussulman law, noticed in this paragraph, viz that, "one punishment suffices for every previous repetition of the same offence," is strictly applicable to the specific punishment adjudged under a sentence of *hudd*, and that when extended to sentences of *tazeer*, it leaves a considerable discretion with the judge, in apportioning the punishment to the number of offences committed, as well as to their degree of criminality. A futwa of the law officers of the Nizamut Adawlut is now before the Court upon a trial, referred by the senior Judge of the Bareilly Court of Circuit, in which two prisoners (Nathoora and Arjoona) convicted of burglary and theft, on two distinct charges, and sentenced on the first to the punishment prescribed by Regulation I. 1811, are declared, on the *second* charge, liable to *acoobut* or discretionary punishment, (the value of

the property ascertained to have been stolen, not warranting a sentence of *hudd,*) with this addition, "The *acoobut* to be adjudged on both charges should be consolidated; one sentence for both offences being sufficient. The judge, considering the nature of the two offences, will adjudge a proper punishment, in proportion to the degree of criminality, instead of passing a separate sentence in each case. What is meant by consolidation (*tudakhil*) in cases of *tazeer*, is that one punishment should be inflicted for two or more offences of the same nature, by imprisonment, for a shorter or longer period at discretion, and by stripes, not exceeding 39; that being the greatest number of stripes which can be legally inflicted, without a sentence of Hudd."

PAR 7. The Court observe, that a Regulation (XV. 1814,) has been recently enacted "to define the punishment to which persons convicted of two or more offences shall, in certain cases, be subject," that they are not aware that the provisions of the Mahomedan law, as noticed in the above futwa, will militate against a due enforcement of the regulation upon this point, provided the judges of the Courts of Circuit, are careful to make the law officers deliver their futwas, in conformity with the first clause of Section 2, Regulation LIII, 1803, when the prisoner may be liable to discretionary punishment.

No. 141.

To the Courts of Circuit.

October 5, 1814.

I AM directed by the Court of Nizamut Adawlut, to transmit to you the enclosed copy of a letter from the superintendent of police for the Western Provinces, dated the 19th July last, together with copy of a letter addressed by order of the Court to the late acting magistrate of zillah Agra, under date the 23d April 1812, containing the construction given by them to the provisions of Regulation X. 1811; and to desire, that you will communicate the same to the several magistrates in your division, for their information and future guidance.*

To the Register of the Nizamut Adawlut, July 19, 1814.

Instances having frequently occurred within the division of the Western Provinces, of persons having been apprehended by the police darogahs and subjected to punishment for the imputed offence of having sold or purchased a slave or slaves, and it appearing that many of the local magistrates, and, I believe, all the police thannadars, as well as the inhabitants generally of these provinces, consider such sale or purchase to be prohibited by Regulation X. 1811, under any circumstances whatever; I beg leave

* Slavery in the Company's territories has been abolished by Act. I. of 1843.

to submit for the consideration and decision of the Court of Nizamut Adawlut, whether such construction be just, and conformable to the letter or spirit of the regulation; or whether the enactment alluded to has not exclusively reference to slaves imported from foreign countries.

2. Conceiving that the object of the regulation in question was exclusively the prevention of the importation of slaves, by sea or by land, from foreign states or countries for the purpose of traffic, and that it was by no means intended by that enactment to supersede the operation of the Mahomedan law, and to prohibit or to interfere with the purchase or sale of any slave or slaves within the limits of the Company's territories, who may not have been so imported, I submit, for the consideration of the Court, the expediency of this point being explained, should the above construction be correct, for the information and future guidance of the magistrates and their police officers, not only in order to obviate the recurrence of instances of the illegal apprehension and punishment of individuals for this supposed offence, but more particularly with a view to the preservation of the lives of the infants and children of the poorer clases of the inhabitants in these provinces, which, in seasons of scarcity similar to the last, in which their parents may be unable to support them, must fall a sacrifice by famine to a mistaken principle of humanity, when those lives might not only have been preserved, but in all probability the future condition and happiness of the individual bettered and advanced under a state of bondage, differing so widely as that state is well known to do in Asia from all other countries; and I believe the district of Agra furnished a dreadful example, in the last year, of the effects of the prohibition alluded to, in the spectacle it presented of thousands of starving children abandoned by their parents, or expiring in their arms from hunger, whose lives might have been saved had their parents been suffered to dispose of them to the wealthier part of the community.

To the Acting Magistrate of Zillah Agra, April 23, 1812.

I am directed by the Court of Nizamut Adawlut to acknowledge the receipt of a letter from you, dated the 3d instant, requesting the Court's instructions relative to the operation of the provisions of Regulation X. 1811.

2, The Court, adverting to the title and preamble of the regulation in question, and to the bond required by Section 5, understand the provisions in it to be applicable only to the importation of slaves, for the purpose of being sold, given away, or otherwise disposed of.

3. The cases stated in the 1st and 2d paragraphs of your letter, do not, therefore, appear to be within the provisions of the

regulation, nor (the Court observe) is any part of the regulation applicable to the sale of slaves not imported into the British territories.

No. 145.

To the Courts of Circuit.

March 1, 1815.

It having been lately represented to the Nizamut Adawlut, that serious inconvenience has, in some instances, been found to result from the strict observance of the rule, that all prisoners confined in the public jails shall be locked up during the night in the several wards; I am directed to communicate to you, and to desire that you will circulate, for the information and guidance of the several magistrates within your division, the following rule, in modification of the rules already in force, for the management of the jails, and guarding the prisoners.

2. Whenever, from the heat of the weather, and the crowded state of the jails, it may appear to the magistrates seriously objectionable to adhere strictly to the rule of locking up all the prisoners in the several wards, they shall use their discretion in permitting to sleep outside the wards in the yard of the jail, such of the prisoners as have been charged with, or convicted of, or are held to security for, the less serious offences. In using this discretion, the magistrate shall adopt such precautions as may ensure the primary object of the safe custody of the prisoners.

No. 150

To the Several Magistrates.

August 10, 1815.

Instances having occurred of prisoners being sent to the presidency without any report having been previously submitted to the Nizamut Adawlut, as required by Clause fourth, Section 8, Regulation LIII. 1803, from a misconception of the Court's circular instructions of the 26th December 1811;* I am directed to acquaint you, that no prisoners whatever are to be removed from the district under your charge, until you have received the orders of the Nizamut Adawlut on the list required to be transmitted to the Court by the regulation above cited.

2. I am further directed to desire that, with the view of facilitating reference, you will be careful to distinguish, in the lists in question, prisoners under sentence of the Nizamut Adawlut, from those who have been sentenced by the Court of Circuit; specifying also, the date of sentence in each case.

* Perhaps No. 106, of the 20th December 1811, is here referred to

3 You will observe, that no prisoners are to be included in the list required by the fourth clause of Section 8, Regulation LIII. 1803, except such as may be liable to transportation or banishment under their sentence.

4. Should any convicts not sentenced to transportation or banishment be removable to another jail or district, under the special orders of the Nizamut Adawlut, issued in conformity with the fifth Clause of the abovementioned regulation, such orders will of course convey the necessary instructions relative to the removal of the convicts so circumstanced.*

5. Should any prisoners liable to banishment or transportation remain in your jail, at the period of transmitting the half-yearly report of persons in confinement, required by the Court's circular order of the 25th April 1811, you will be careful to notice them, as directed in the 3d paragraph of my circular letter of the 25th June 1812, with the date of any reference made to the Nizamut Adawlut regarding them.

No. 151.

To the Courts of Circuit.

August 10, 1815.

I AM directed by the Court of Nizamut Adawlut, to transmit for your information, the accompanying copy of a circular letter, issued to the several magistrates on this date.

To enable the magistrates to comply with the orders contained in the 2d paragraph, I am desired to request, you will make it an invariable rule, in future, to specify the date of the Nizamut Adawlut's sentence, in the warrant issued by you for carrying it into execution.

No. 156.

To the Courts of Circuit.

November 20, 1815.

SEVERAL instances having come under the notice of the Nizamut Adawlut in which magistrates have committed persons for trial before the Courts of Circuit, solely on the ground of the accusation of confessing prisoners, that such persons were their accomplices or concerned in the offence charged; and a vague uncorroborated accusation of such a nature being insufficient to warrant a sentence of any punishment upon a person so accused, or even to hold him to security, unless accompanied with evidence to general bad character; I am directed by the Court of Nizamut

* The removal of Convicts under this rule rests now with the Government and not the Nizamut Adawlut.

Adawlut to desire, that you will acquaint the several magistrates within your division, that the Court are of opinion they ought not to commit for trial before the Court of Circuit, or hold to security any person on the sole ground abovementioned; at the same time acquainting them that it is not intended by the present orders to restrict them from making any further inquiry, or holding any further proceedings they may consider to be necessary, regarding persons in the above predicament, or from acting according to the result.

No. 157.

To the Courts of Circuit.

December 7, 1815.

An instance having recently occurred of a prisoner committing suicide without any inquest being held on the body, or other inquiry made, with the view of ascertaining the cause which may have urged the prisoner to the commission of the act, and the Court of Nizamut Adawlut being of opinion, that inquiry should invariably be made in all cases of this nature; I am directed to desire that you will instruct the several magistrates in your division accordingly.

2. You will at the same time inform them, that the result of the inquiries made in such cases is to be regularly reported to your Court, who, in any instances which may appear to require it, will communicate the same for the information of the Nizamut Adawlut.*

No. 159.

To the Zillah and City Magistrates.

February 21, 1816.

It having been represented to the Court of Nizamut Adawlut, that some of the magistrates are in the practice of sentencing vagrants, and persons convicted of specific offences, to banishment from the city or district in which they were apprehended, and even to expulsion from the British territories; I am directed to advise you, that such sentences are wholly unwarranted by the regulations in force, and to caution you against passing any future sentence, or order of this nature.

2. I am, at the same time, directed to inform you, that the Court do not mean to prohibit what they also understand to be an occasional practice, viz. the discharge from custody of a vagrant, or other

* The Report will have now to be made to the Government by the Session Judge.

person, not being a fixed inhabitant of a particular city, or district, who may have been apprehended under any circumstances of suspicion, and may not be able to find security for his good behaviour, on his voluntary offer or consent to quit the jurisdiction in which he was taken into custody.

3. The Court observe, however, that this measure should, for obvious reasons, be adopted with circumspection, lest persons of bad character, released without security in one city or *zillah*, be left at liberty to commit acts of criminality in another jurisdiction.

No. 160.

To the Courts of Circuit.

February 24, 1816.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information and guidance, the enclosed extract of a letter (Par. 69) from the Court of Directors, dated the 19th May 1815, received with a letter from the Secretary to Government in the Judicial Department, dated 29th December last.

Extract of a letter from the Honourable the Court of Directors, dated 19th May 1815, in the Judicial Department.

69. It is stated by Mr. Rees, that he invariably makes it a rule to pass sentence upon the prisoners in the most public manner, and to explain to them the enormity of their crimes; and that he had hopes, from the attention paid by the by-standers, that it had a good effect. It is a practice which cannot be too generally observed; and we strongly recommend that the judges do, in passing sentence on criminals, take the opportunities thus presented to them in crowded Courts, of explaining the provisions of such penal enactments, as may have been recently passed by the Government, and are but imperfectly known or understood by the community.

No. 161.

To the Courts of Circuit and Superintendents of Police.

February 24, 1816.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information, the accompanying copy of a circular letter written by order of the Court to the several magistrates on this date.

Copy of a Letter written by order of the Nizamut Adawlut to the Several Magistrates, on the 24th February, 1816.

I am directed by the Court of Nizamut Adawlut to transmit to you the enclosed extracts (Pars. 2 and 7) of a letter from the magis-

trate of Nuddea, received with a letter from the Register to the Calcutta Court of Circuit, dated the 20th instant.

2. Instead of the proposition contained in the 7th paragraph of the Magistrate's letter, the Calcutta Court of Circuit have suggested *the propriety, either of confining convicts of dangerous characters, on their passage by water from one station to another, entirely to the boat, or if it be necessary that they should be occasionally removed on shore, that they may be permitted to land in small numbers only at a time.*

3. The general use of hand-cuffs and neck-chains, would, the Court think, be objectionable, as endangering the lives of the convicts in case of accident to the boat by fire or otherwise; but in special instances they may be indispensable; and the Court do not, therefore, think fit to prohibit the practice, concluding that it is not resorted to, except in cases of emergency.

4. Nor does it appear expedient to prescribe any general rules in regard to the custody of convicts on their removal from one district to another, as the precautions for security, in each instance, should be adapted to the number and character of the prisoners.

5. But as *frequent instances have lately occurred of attempts* made by prisoners to overpower their guard, the Court have thought it proper to call your attention to the subject, that you may, by particular instructions to the guard, or otherwise, take such measures of precaution as may appear necessary for preventing similar attempts, without subjecting the prisoners to more restraint than may be requisite for their safe custody.

Extract of a Letter from the Magistrate of Nuddea to the Register of the Calcutta Court of Circuit.

2. A party of the 30th regiment of native infantry, consisting of one havildar, one naick, and twelve sepoys, were escorting in a boat 14 convicts, (under transportation for life, forwarded from the magistrate of Benares to the Twenty-four Pergunnahs;) and on the 14th instant, were passing down the Mathabanga river, in this district. In the evening they brought to, and the convicts were allowed, as usual, to go on shore for a few minutes, when, it seems, in returning to the boat, several of them rushed forward, and seized a spear, and musket, and a sword, with which they immediately attacked the sepoys, and a scuffle ensued, in which the havildar received a slight cut from the sword, and one of the convicts was wounded in the thigh, by a musket shot from one of the sepoys, seven of whom fired on the prisoners. Seeing no prospect of success, all of the convicts, with the exception of three men, who remained in the boat, threw themselves into the river, and attempted to escape; the sepoys then surrounded the spot on both sides of the river, and apprehended the prisoners as they came to the

shore. Six of them were secured in this manner; but there is reason to apprehend, that the remaining five convicts were drowned.

7. In conclusion, I beg leave to submit my opinion, that all convicts of desperate and dangerous character, sent in boats, ought to be neck-chained, or hand-cuffed.

No. 165.

To the Courts of Circuit.

June 12, 1816.

By a circular order of the Nizamut Adawlut under date the 6th January 1801*, the several magistrates were directed to instruct their police officers to secure, and send to the sudder station of each district, all insane persons from whose insanity they might have reason to apprehend any fatal effects, unless their friends should enter into engagements to take such care of them as to prevent the possibility of their doing any mischief.

2. The same order contained instructions for the confinement of the insane persons referred to, with proper attendance, in a separate ward of the jail.

3. Insane hospitals having been established, since the date of this order, at the principal station of each provincial division, for the reception and care of insane natives sent from the different districts, the Court are of opinion, that such persons should in general be removed to the hospital of the local division as soon as circumstances may admit.

4. The Court desire, that you will instruct the several magistrates in your division accordingly; leaving it, however, to the discretion of the magistrates to detain under their charge any individuals confined on account of insanity, whose removal to the division hospital may appear to them objectionable.

5. In such cases, the reason of the detention should be reported to your Court, and should also be invariably stated, for the information of the Nizamut Adawlut, in the half-yearly report of prisoners, required by their circular orders of the 25th April 1811, and 25th June 1812 †.

6. The Court further direct me take the present opportunity of enjoining the strict attention of the magistrates to their circular order of the 25th June 1812, regarding the information to be furnished, whenever the number of the prisoners in confinement may be greater than what the jail is calculated to contain.

7. Much unnecessary correspondence has been occasioned by the non-observance of this rule, and serious consequences have, in

* See No. 24.

† This Report has been superseded by another and is submitted direct to Government through the Session Judge.

some instances, been experienced from a want of proper attention, on the part of the magistrates, to the crowded state of their jails.

8. You are desired to attend to this point in examining the future half-yearly reports of your division, and to require an immediate explanation from any of the magistrates who may not conform to the present orders; requiring them at the same time to supply the omission.

No. 170.

To the Courts of Circuit.

July 24, 1816.

It having been suggested to the Court of Nizamut Adawlut, that it would be convenient to the Courts of Circuit, if the lists of witnesses included in the calendars prescribed in Section 13, Regulation IX. 1793*, were distinguished under certain separate heads; the Court desire, that you will instruct the magistrates of your division to observe the following distinctions, in any future calendars prepared by them, under the Section referred to.

2. The prosecutor's witnesses, named in the fifth column, to be classed under three subordinate heads, or as many of them as may be applicable in each case; viz.

1st. Witnesses to the charge.
2d. Witnesses to confessions.
3d. Witnesses to character.

3. The witnesses on the part of the prisoners, named in the 8th column, to be classed under two heads, viz.

1st. Witnesses to the defence.
2d. Witnesses to character.

4. Should any other subordinate head appear to the magistrate necessary or useful, in any instance, there would of course be no objection to his adoption of it.

No. 173.

To the Courts of Circuit†—(*excepted Benares.*)

September 23, 1816.

I am directed by the Court of Nizamut Adawlut to transmit to you the enclosed extract (Par. 5) of a report from Mr. Fortescue, late officiating Judge of the Benares Court of Circuit, under date the 17th February last.

* Benares Division add—"Extended to Benares by Section 4, Regulation XVI. 1795, and re enacted for the Upper Provinces in Section 13, Regulation VI. 1803." Bareilly Division to be substituted—"Section 13, Regulation VI. 1803."

† This Calendar has been retained as it contains suggestions that might apply to Session Judges holding Quarterly Sessions at the stations of Joint Magistrates.

2. The suggestion offered by Mr. Fortescue, viz. that the Courts of Circuit should first try cases, in which the crime may have been committed at a distance from the magistrates' stations, with a view to the attendance of further witnesses during the session, could not be observed as a rule of practice, except in cases where the prosecutor and witnesses named in the original calendar may be in attendance at the opening of the session.

3. But the Court have thought it proper to communicate the suggestion for your information, and for such attention to it as you may find practicable.*

Extract of a Letter from the officiating Judge of the Benares Court of Circuit, under date the 17th February, 1816.

PAR 5. It appears to me also, that the number of postponed cases might be reduced, and the consequent inconvenience of a second attendance to prosecutors and witnesses, as well as of long distress to prisoners obviated, were the judge on circuit required, instead of beginning, as at present with the most heinous cases, to commence on those in the magistrates's calendar which have had rise at the greatest distance from the sudder station, in order that, when any more witnesses or inquiries should be requisite to complete the trials, there might be time for a reference to the thanadar, before the judge on circuit could finish the nearer commitments.

No. 177.

To the Courts of Circuit.

November 13, 1816.

AN instance having occurred of a magistrate's committing a person for trial before a Court of Circuit, upon a charge for which he had previously been tried and acquitted by that Court; and the Court of Nizamut Adawlut being of opinion, that this practice, although sanctioned by the Mahomedan law, is inconsistent with established principles of justice; they desire, with the view of preventing any similar occurrence in future, that you will instruct the several magistrates in your division, not to commit or hold to bail for a second trial before the Court of Circuit, any person already tried and acquitted on the same charge, by a competent tribunal, whether the Court of Circuit or Nizamut Adawlut.

2. This order, however, is not intended to preclude the magistrates from committing for trial before the Court of Circuit, in cases cognizable by that Court, persons who may have been before apprehended and discharged by a magistrate from want of evidence,

* This circular has been retained as it contains suggestions that might apply to Session Judges holding Quarterly Sessions at the stations of joint Magistrates.

if further evidence in support of the charge, should appear to warrant the measure.

3. The Court will include a provision to the above effect in some future regulation, and will, at the same time, propose an extension of it to the Court of Circuit, (who are now required to regulate their proceedings by the opinions of their law officers on all points of law,) so as to restrict them from proceeding on the trial of persons already tried and acquitted by a competent tribunal, if a second commitment in any such case should be hereafter made by a magistrate.

No. 178.

To the Courts of Circuit.

November 13, 1816.

Repeated instances having been brought to the notice of the Nizamut Adawlut, of police darogahs acting in violation of the positive prohibition contained in the third Clause of Section 5, Regulation XIV. 1810,* by holding out encouragement to persons apprehended on criminal charges to confess the same, in expectation of obtaining a pardon or remission of punishment; the Court desire that you will instruct the magistrates in your division, to issue perwannahs to the several police officers within their respective jurisdictions, reminding them of the rule above cited, and enjoining their strict attention thereto, with an intimation that the Nizamut Adawlut, in any future instance which may come before them of a police darogah acting in opposition to the rule, will order the person so offending to be immediately dismissed from office.

2. The Court at the same time trust, that your Court, as well as the several magistrates, will exercise a vigilant control over the conduct of police officers, as opportunities may offer, with the view of effectually checking an unwarrantable assumption of authority, liable to the most serious objections.

No. 180.

To the Courts of Circuit.

November 20, 1816.

By the circular orders of the Nizamut Adawlut, under date the 5th March 1810, a discretion was vested in the magistrates to execute criminals under sentence of death, at such place within their respective jurisdictions as might appear to them most expedient,

* Section 5 Regulation XIV. 1810 has been rescinded by Section 2, Regulation X. 1824. But the purport of this order has been enacted in Section 19, Regulation XX. 1817.

causing the body to be afterwards exposed upon a gibbet, as near to the spot where the crime had been committed as circumstances should admit.*

2. It was at the same time directed, that the necessary alteration should be made in the warrants issued by the Courts of Circuit. But on inspection of several returned warrants transmitted to the Nizamut Adawlut, after execution of the sentence, due attention does not appear to have been paid to this part of the order cited.

3. The Court have, therefore, caused the requisite alterations to be made in the printed form of warrant for sentences of death; and I am directed to send you the accompanying fifty copies, with instructions to return whatever number of copies of the old form you may at present have in store.

4. It being impossible to render the form of warrant applicable to every case, of male and female convicts; the Court rely on your particular attention to make such alterations as may be necessary, according to the terms of the sentence, in each instance, to which the warrant should of course conform as exactly as possible.

No. 183.

To the Courts of Circuit.†

April 30, 1817.

I AM directed by the Court of Nizamut Adawlut to transmit, for your information, the enclosed copy of some additional rules for the management of jails and treatment of prisoners, which have been circulated to the several magistrates on this date, in conformity with Sections 2 and 3, Regulation XIV. 1816.

Additional rules for the management of public jails, and treatment of prisoners employed on the public roads, proposed by the Court of Nizamut Adawlut to be circulated, with the sanction of Government, for the guidance of the zillah and city magistrates, in pursuance of Sections 2 and 3, Regulation XIV. 1816, and approved by the Governor General in Council, on the 18th April, 1817.

First. The construction of substantial public jails in each zillah and city jurisdiction, having rendered it unnecessary for the safe custody of prisoners in such jails, that they should be confined in stocks, except in special cases of exigency; the ordinary use of stocks in the public jails is hereby strictly prohibited. If at any time a magistrate, under special circumstances, shall consider the temporary use of stocks to be indispensably requisite for the custody of any of the prisoners under his charge, he is authorized to

* Gibbetting bodies after execution is now interdicted—See No. 140 Part II.
† Transmitted to the magistrates also.

direct the same, but shall immediately transmit a full report of the case, for the information and orders of the Court of Circuit of the division.

Second. In addition to the seventh clause of Section 3 of the rules passed by the Governor General in Council, on the 8th February, 1811, and circulated to the several magistrates by the Court of Nizamut Adawlut, on the 14th March, 1811, it is hereby directed with a view to guard against the possibility of fire, when convicts are employed on the roads, and confined at night in a hut or tent, that no more than ten, or at the utmost twenty convicts shall be secured with the same chain passing through the ring of their fetters. The chain to be made light, and put through the fetters whilst the prisoners are standing, in such manner as not to prevent their moving together with facility, on an alarm of fire. The hut or tent in which the prisoners are confined at night, should also have a convenient number of doors for their speedy removal in the event of fire; and every precaution should be taken to prevent so serious an accident, especially by using lantherns to enclose any lamps that may be kept burning, or occasionally lighted during the night.

Third. It appearing to be expedient for the health and cleanliness of convicts subject to hard labour, as well as for the convenience of the guards who have charge of them, that when circumstances may admit of it, they should be exempted from labour, during one day in each week; the magistrates are required to observe as a general rule, what is now the established practice in many districts, that, except on urgent occasions, when the labour of convicts engaged in the execution of any particular work cannot be dispensed with, they shall not be employed on Sundays; and at all events a part of every Sunday shall invariably be allowed to them, and to their guards, for purposes of cleanliness. The magistrates shall, at the same time, be careful that this indulgence is not abused by any misbehaviour; and shall adopt such measures as may appear best calculated to secure the due attainment of the object intended by it.

Fourth. It shall also be at the discretion of the magistrates to authorize an intermission of labour at the principal Moosulman and Hindoo festivals, as far as may appear indispensably necessary to enable the convicts of either persuasion to perform their religious ceremonies respectively; but not to any further extent than may be requisite for this purpose.

No. 185.

To the Courts of Circuit.

July 9, 1817.

It has occurred to the Nizamut Adawlut, that it will be useful to furnish the zillah and city magistrates with copies of the futwas of your law officers, in all cases of sentences passed by the Court of Circuit, without reference to the Nizamut Adawlut, and with copies of the futwas of the law officers of the Nizamut Adawlut, when the final sentence may be passed by this Court; as well to enable the magistrates to explain to each prisoner the grounds of the sentence passed upon him, as to assist them in the discharge of prisoners, in giving the certificate, or roobakary prescribed in the circular order of 21st August, 1812.*

2. You are accordingly desired, in all instances of sentences hereafter passed by your Court, without reference to the Nizamut Adawlut, to transmit, with your warrant, to the magistrate, a copy of the futwa or futwas delivered in the case by your law officer; and in like manner to forward to the proper magistrate, copies of the futwas of the law officers of the Nizamut Adawlut, (which are always sent to you with the sentences of the Court, in pursuance of their resolution under date the 5th September, 1811†,) whenever you may issue your warrants for the execution of sentences passed by the Nizamut Adawlut.

3. You are further desired to transmit a copy of this letter to the several magistrates within your division, for their information.

No. 186.

To the Courts of Circuit.

July 19, 1817.

The circular order of the Nizamut Adawlut, under date the 23d March, 1796,‡ not stating whether the specification of the session and trial, prescribed in that order, is to be in the English or Persian language, I am directed to acquaint you, in explanation of the order referred to, that the specification required by it, should be uniformly prefixed to the record of the trial, in both English and Persian.

2. You are further desired to insert the same specification in English only, in the margin of the letter to the Nizamut Adawlut, accompanying the trial, as is now the practice of many judges of the Courts of Circuit, though not of all.

* See No. 116.
† See No. 101.
‡ See No. 108, Part II., paragraph 3

No. 187.

To the Courts of Circuit—(except Calcutta.)

July 31, 1817.

THE Court of Nizamut Adawlut having had under their consideration a question referred to them on the competency of a Court of Circuit to admit a *razeenamah,* or compromise, in a criminal prosecution after commitment for trial by the magistrate, I am directed to communicate the following observations on the subject for your information and guidance.

2. The only provision in the regulations now in force, which authorizes the admission of a private compromise on criminal prosecutions, is that contained in the latter part of Section 8, Regulation IX. 1807, which directs that "excepting the trivial cases noticed in the Section, no razeenamah shall be received without the special sanction of the magistrate; nor shall any private compromise be admitted by the magistrate, in crimes of a heinous nature, such as on conviction may require exemplary punishment for the ends of public justice."

3. The Court of Nizamut Adawlut are of opinion, that the principle of the prohibition, contained in the above Clause, is applicable to, and obligatory upon, the whole of the criminal Courts.

4. It follows, that no Court of Circuit would be justified in admitting a compromise in crimes of a serious nature, such as require exemplary punishment for the ends of justice; especially crimes of this description which have been recognized as such in the regulations, and when it may have been expressly directed that the offenders shall be brought to trial before the criminal Courts.

5. The Court are further of opinion, that a formal razeenamah, or compromise, ought not to be admitted by a judge of circuit, to bar the trial of any commitment made by a magistrate; both as there is no provision for such in the existing regulations, and as the established practice of discharging the prisoner on a futwah of acquittal, when evidence may not be adduced for his conviction, and the ends of public justice may not require a postponement of the trial for further evidence, appears preferable to the admission of a compromise, which might perhaps leave the prisoner exposed to a future prosecution.

No. 183.

To the Zillah and City Magistrates, in the Divisions of Dacca, Patna, Benares, and Bareilly.*

August 14, 1817.

I AM directed by the Court of Nizamut Adawlut to transmit, for your information and guidance, the enclosed extract of a letter (paragraphs 3, 4, and 5) from the acting Chief Secretary to Government, dated the 29th ultimo, relative to convicts sentenced to perpetual imprisonment, and ordered to be sent to the jail at Allipore.

Extract of a Letter from the acting Chief Secretary to Government dated the 29th July, 1817.

PAR. 3. I am directed to request, that you will submit to the Court of Nizamut Adawlut the accompanying copy of a letter and of its enclosures from the superintendent of police in the Western Provinces, reporting an attempt, on the part of a body of convicts sentenced to perpetual imprisonment, to effect their escape from the jail at Cawnpore.

4. The instances which have so repeatedly occurred of convicts sentenced to imprisonment for life attempting to effect their escape when collected together in any large numbers, coupled with the observations in Mr. Shakespear's present letter, render it necessary in the judgment of the Vice-President in Council, to modify those parts of the circular orders of the Nizamut Adawlut, which require that convicts ordered to the presidency from the several districts in the divisions of Bareilly, Benares, Patna, and Dacca, be previously assembled in the jails at Cawnpore, Benares, Patna, aad Dacca.

5. The Court is accordingly requested to instruct the magistrates of the several districts comprised within the divisions of Bareilly, Benares, Patna, and Dacca, to detain convicts sentenced to perpetual imprisonment in transportation under safe custody at their respective stations, till towards the close of the rains, and then to send them down directly to the presidency, instead of forwarding them, as at present, to the magistrates of Cawnpore, Benares, Patna, and Dacca.

* Transmitted also to the Courts of Circuit for the divisions of Dacca, Patna, Benares and Bareilly.

No. 191.

To the Zillah and City Magistrates.

October 21, 1817.

The frequent loss of lives, by persons falling into uncovered wells, especially in the province of Behar, and some parts of the Western Provinces, having been brought to the notice of Government, I am directed by the Nizamut Adawlut, in pursuance of a desire expressed by the Honorable the Vice-President in Council, to communicate to you the following instructions, with a view to guard against such fatal accidents, as far as circumstances admit.

2. It is apprehended that casualties of this nature are, for the most part, beyond the reach of any legislative remedy which could be applied with propriety; and that any direct interference of the police officers would be not only ineffectual, but also occasion dissatisfaction.

3. But it is supposed that the influence and authority of the local magistrates might frequently be exerted with advantage in inducing the proprietors of wells to adopt such measures as are calculated to prevent the occurrence of such accidents; or the recurrence of them, when a loss of life may have actually taken place, in any instance, from the want of a parapet-wall round the well, or other proper and usual precaution.

4. You are accordingly desired to take every suitable occasion of advising and enjoining the proprietors of wells, within your jurisdiction, to render them as secure as possible against accidents to travellers or to persons who may be in the habit of using them; and whenever an instance may occur of accidental death, from the want of any due precaution on the part of the proprietor of a well, you will admonish and require him to adopt such measures as may appear proper and necessary to prevent any recurrence of a similar accident.

5. In the event of there being any public wells, without proprietors, you will direct the local police officers to ascertain the state of them from time to time, and report to you whenever they may be insecure from the want of a parapet-wall, or otherwise; with a statement of the expense required to make them secure. If the expense so stated be inconsiderable, and appear, on inquiry, to be necessary for the purpose of securing a public well, you are authorized to defray it, and to charge the amount in your monthly contingent bill, with the usual explanation. But if the stated expense be, in any instance, more than fifty rupees, you will transmit the police officer's report, with your sentiments upon it, to the superintendent of police; in conformity with the rule prescribed for similar cases by Section 17, Regulation XVII. 1816.

No. 192.

*To the Magistrates of the ceded and conquered Provinces, including Cuttack**.

December 1, 1817.

An instance having been recently brought before the Nizamut Adawlut of two prisoners, who were committed to take their trial, before the Bareilly Court of Circuit, for the offence of castrating a child, and who pleaded, in their defence, that this offence "had never been expressly prohibited by the British Government," the attention of the Court has been led to the notification directed in their circular order, under date the 27th April 1796,† to be issued by the magistrates of the Lower Provinces and the provinces of Benares.

2. The Court not being apprized that this notification has ever been published in the ceded and conquered provinces, (or in the district of Cuttack,) I am directed to desire that in the event of such not having been the case, you will forthwith cause a notification to be published throughout the district under your charge, of the same tenor as that enjoined in the third paragraph of the circular order above adverted to.

No. 193.

To the Courts of Circuit.

January 27, 1818.

The Court of Nizamut Adawlut having observed several instances wherein the judges of the Courts of Circuit, immediately after receiving the charge from a prosecutor, enter upon an examination of the prisoners, particularly touching confessions stated to have been made before the police officers, or the magistrate, and deeming this practice to be highly irregular, they again call the attention of the judges of the Courts of Circuit to the rule of proceeding laid down in Section 47, Regulation IX. 1793‡ a strict observance of which was required by the Court's circular order of the 28th February 1799.§ The Court at the same time direct, that the judges of the Courts of Circuit abstain from examining a prisoner in the manner above alluded to; that they confine themselves, in the first instance, to taking from the prisoner a plain answer of guilty or not guilty, and then proceed to the examina-

* The same to the magistrates of the other zillahs in the Upper Provinces, with local alterations.

† See No. 4.

‡ To Benares court add—"extended to Benares by Section 22, Regulation XVI. 1795;" and to Bareilly Court substitute—"Section 15, Regulation VII. 1803."

§ See No. 19.

tion of the witnesses who are summoned in support of the facts charged against the prisoner; after which (and not before, as is now sometimes the case) any confession stated to have been made by the prisoner, should be recorded on their proceedings, and the trial concluded in the mode directed by the abovementioned Section.

No. 195.

*To the Zillah and City Magistrates.**

February 4, 1818.

I AM directed by the Court of Nizamut Adawlut, to transmit to you the accompanying English copy of a proclamation, with translations of it in the Persian and Bengallee† languages, and to desire you will cause the latter to be read and published at all the public cutcherries within your jurisdiction, including those of the collector and moonsiffs, as well as at the several police thannas.

2. You are further desired to take every proper occasion, especially when the case of a child's being murdered to obtain its jewels or ornaments may come officially before you, to impress upon the minds of parents and other persons who may be present in court, the danger to which children are exposed by the practice of allowing them to go abroad with jewels and ornaments unless attended by persons able to protect them, and the consequent imprudence and impropriety of their perseverance in a practice so often attended with effects as lamentable to themselves as fatal to the lives of their children.

Draft of a Proclamation to be published in the Persian, Bengallee, and Hindoostanee Languages.

It having come to the knowledge of Government through various channels of information, and particularly from the reports of the zillah and city magistrates, the Courts of Circuit, and superintendents of police, that frequent instances still occur in many parts of the territory subject to this presidency, especially in the Western Provinces, of the murder of children for the purpose of obtaining their gold and silver ornaments; and the Honorable the Vice-President in Council, being desirous of preventing as far as

* Copies of this letter, and of the proclamation with translates of it in the native languages, were forwarded to the several Courts of Circuit with this paragraph. "Par. 2. The Court desire, that you will cause the proclamation in the country languages to be read and published at your cutcherries, and that you will consider the instructions contained in the 2d paragraph of my letter to the magistrates, equally applicable to the judges of your Courts, whenever a proper occasion may occur, on a criminal trial or otherwise, for promoting the object intended.

† In Hindoostanee, in the Western or ceded and conquered provinces. The translations will be found in the Appendix

possible this atrocious and lamentable crime, so distressful to the parents and other relatives of the numerous children thus murdered from year to year, without having recourse to measures of a prohibitory and penal nature, which might interfere with established usages, and occasion loss of property or personal inconvenience; it is hereby notified by the Court of Nizamut Adawlut, with the sanction of Government, to all parents, guardians, and others, having the charge of young children, whether of the Hindoo or Moosulman religion; that whereas experience has shewn the great danger of robbery and murder to which children are exposed by being allowed to go abroad from the house of their parents or other persons, having the care of them with gold or silver ornaments, especially when not attended by trust-worthy persons capable of protecting them, it is the obvious duty of all parents and others intrusted with the care of children, to guard against such danger by removing the cause of temptation, and by not permitting any child under their charge to go from home with any gold or silver ornament, except in company with themselves or with other persons on whom they can depend, to guard against the possibility of any calamitous consequence which they must be well aware has too often ensued from a neglect of such precaution. The judges of circuit and the zillah and city magistrates have been further instructed to take every proper occasion of impressing upon the minds of parents and other persons who may be present at criminal trials in cases of child murder, the danger to which children are exposed by the imprudent practice of allowing them to go abroad with jewels and ornaments; and it is hoped, that the respectable inhabitants of the country, as well from feelings of natural affection, as from a sense of moral duty, will be induced to shew a strict and ready attention to such communications, as well as to the admonition contained in this notification, which can have no other object than to preserve the lives of many helpless children, and to prevent the distress of their relations from the loss of them. All parents and others having the care of children, are accordingly hereby expected and enjoined to maintain by their example and influence, a careful observance of the precaution recommended to them in this proclamation, which it may be confidently expected will effectually check the prevalent crime adverted to, and thereby preclude the necessity of adopting any other remedy. Dated ————; and published by order of the Court of Nizamut Adawlut, with the sanction of the Honorable the Vice President in Council.

M. H. TURNBULL,
Register.

No. 196.

To the Courts of Circuit.

February 24, 1818.

I AM directed by the Court of Nizamut Adawlut to transmit to you for your information and guidance, the enclosed copy of a letter from the acting chief secretary to Government, dated the 10th instant, and to desire you will communicate the same to the several magistrates within your division for their information and guidance.*

(COPY.)

Experience having shewn that the labour of the convicts confined in the several districts throughout the provinces subordinate to this presidency, can be turned to very beneficial account in various duties connected with the repair and construction of public buildings, the Honorable the Vice-President in Council deems it of importance, that the magistrates generally should be instructed to furnish to the superintendents of civil buildings, and to the officers acting under them, the aid of such number of convicts as can be conveniently spared from other urgent public duties, with a view to diminish the expense of repairing and constructing jails, hospitals, cutcherries, and bridges in the immediate vicinity of the stations at which such works may be sanctioned by Government.

2. To enable the superintendent of civil buildings to judge of the degree in which the actual charges incurred in such buildings have been or may be reduced by the employment of convicts in each instance, the magistrates should be directed to keep an accurate monthly account of the total number of convicts furnished by them for the duties in question.

3. By the circular orders of the Nizamut Adawlut, dated the 21st of June 1803, the zillah and city magistrates are prohibited from employing the convicts under their charge, upon any private works whatever, and are required on all occasions to employ them upon the roads or other public works.

4. By the circular orders of the 19th July 1803, however, the Courts of Circuit are authorized, on consideration of any special circumstances of a temporary or local nature, to sanction the employment of a portion of the convicts on works not exclusively of a public description; but the magistrates are not authorized to employ the convicts on such works, except under the express sanction of the Court of Circuit previously obtained. The Vice-President in Council, does not consider it to be necessary to direct any modification of the rules in question, but adverting to the importance of rendering the labour of the convicts available at all times

* Any Report the Session Judge may have to make under this circular order should be addressed direct to Government.

for the furtherance of works of a public nature, he is of opinion, that the Courts of Circuit should exercise the discretion vested in them by the curcular orders of the 19th July 1803, with great caution and consideration, giving always a preference to public works over those of a mixed description.

5. Under the provisions of Section 12, Regulation IV. 1797, and of Section 37, Regulation VII. 1803, the judges of circuit are directed to include in their reports to the Nizamut Adawlut, on the conclusion of the sessions, such observations with regard to the employment of the convicts at each station, as they may judge necessary.

6. This subject however is in general very briefly noticed in the reports in question; and the Vice-President in Council desires, that the judges of circuit will in future specify in those reports the total number of convicts liable to hard labour in each district, the public works on which they may be employed, and the number of convicts respectively employed on each work.

7. The judges of circuit will be particulary attentive in also bringing under the notice of the magistrates, or if necessary of the Nizamut Adawlut, any instances in which they may be of opinion, that the convicts are employed, without competent authority, on works not strictly of a public nature.

8. The houses constructed or purchased by Government for the accommodation of the judges of Circuit during the period of the sessions at the stations of the magistrates, were originally intended to be exclusively appropriated to that purpose; Government have however been since pleased to permit the superintendents of police and the members of the Board of Revenue, or of the Boards of Commissioners, to occupy the houses in question at periods when they may not be required for the use of the judges of circuit.

9. The Vice-President in Council is also pleased to permit the Courts of Circuit collectively to authorize the temporary occupation of those houses, by persons employed on the public service, under the express condition, that they uniformly vacate the houses in question at least one month before the period at which the sessions may commence; as well as at other periods at which the houses in question may be required for the accommodation of the superintendents of police, or of the members of the Board of Revenue, or of the Board of Commissioners.

10. This indulgence is not to be extended to persons wishing to occupy cutcherries or any other public buildings in the Judicial department, and the magistrates are strictly prohibited from allowing any individuals to occupy such buildings for their personal accommodation. On the occurrence of any extraordinary emergency which may appear to warrant a temporary exception from the

foregoing rule, the magistrates will apply for the previous sanction of Government, through the Court of Circuit of the division, explaining the cause of the emergency, and specifying the period for which the indulgence may be solicited.

11. The Vice-President in Council requests, that the Nizamut Adawlut will communicate a copy of this letter to the several Courts of Circuit, with instructions to furnish a copy of it to each of the judges and magistrates within their respective divisions. It will of course be the duty of the judges of those Courts, during the periodical circuits, to see that the present orders of Government are duly enforced.

No. 198.

To the Zillah and City Magistrates.

April 8, 1818.

In the resolution of Government, under date the 28th April 1809, circulated to the several magistrates on the 10th May following, (page 63 printed circular orders*) it was directed, that whenever a police darogah should be suspended from office during the trial of a charge against him, and it be found necessary to appoint an acting darogah, the latter should receive the full salary of the office whilst he is so employed.

2. A question having occurred, whether in the event of a darogah being suspended, and his thanna placed during his suspension under the management of a darogah of an adjoining thanna, the latter under the orders above quoted is to receive the whole of the salary attached to both offices, and if not, what portion of the suspended darogah's salary is to be paid to him as compensation for his additional trouble; I am directed to communicate the following instructions for your guidance.

3. The circular order referred to does not appear strictly applicable to a person holding the office of a police darogah, and receiving his salary as such during his temporary appointment to the charge of another contiguous thanna; but if any additional allowance appear proper, in consideration of the additional duty, in such a case the Court are of opinion, it should in the first instance be paid out of the salary of the suspended darogah, subject to the provision already made for cases of ultimate acquittal.

4. The Court are further of opinion, that the magistrate appointing the officiating darogah in such cases should regulate the amount of the allowance to be received by him, according to the extent of the trust, and the additional duty to be performed.

No. 199.

To the Courts of Circuit in the Lower and Western Provinces.

April 20, 1818.

I am directed by the Court of Nizamut Adawlut, to transmit to you the accompanying extract from a report of the second Judge of the Bareilly Court of Circuit, dated the 9th June last (paragraphs 120 to 123.)

2. The Court are not aware of any rule or order which requires, that in cases of the non-attendance of prosecutors before the Courts of Circuit, the trial must be postponed for two successive sessions, and the prisoner not discharged until the prosecutor shall fail to attend at a third session.

3. The Court observe, that the provisions of Section 49, Regulation IX. 1793, (and of Section 17, Regulation VII. 1803,) are expressly applicable to witnesses only; and with regard to them a discretion is vested in the judge of circuit to postpone the trial or not, according as the judge and law officer may be of opinion that the evidence of the absent witnesses is necessary or otherwise.

4. With regard to the case of absent prosecutors, for which there is no express rule in the regulations, the Court are of opinion, that a discretion should be exercised by the judge of circuit according to the nature and circumstances of each case; and that if both prosecutor and witnesses be absent from any cause which is not likely to prevent their attendance at a future period, the trial should be postponed, and the prisoner be admitted to bail, or kept in custody, as the judge of circuit, under the discretion vested in him by Clause second, Section 9, Regulation IX. 1807, may deem it proper to direct.

5. On the other hand, when there may be no prospect of the future attendance of either prosecutor or witnesses in support of the prosecution, the prisoner should be discharged. If, however, the prosecutor only be absent, and his witnesses in attendance before the Court of Circuit, it has been a frequent practice to instruct the magistrate to appoint some person on the part of Government, to conduct the prosecution; and an adherence to this practice, especially when the charge may be such as to call for exemplary punishment on conviction, appears unexceptionable and conducive to the ends of public justice, as well as more convenient for the witnesses in attendance, than a postponement of the trial to a future period.

6. The expedient suggested in the 123d paragraph of Mr. Leycester's report, viz. removing the trial with the prisoner, prosecutor, and witnesses, to the next station of jail delivery on the circuit, might be adopted in particular cases, when the judge of circuit may see urgent and special grounds for autho-

rizing and directing this mode of procedure; but the Court are of opinion, that it cannot be adopted as an ordinary measure, applicable to all cases in which prosecutors and witnesses may neglect to attend the Courts of Circuit at the stated time, without risk of great inconvenience and hardship to parties and witnesses.

7. The sentiments of the Court of Nizamut Adawlut on the above points having received the full concurrence of the Honorable the Vice-President in Council, they are now communicated to your Court, for your information and guidance.*

Extract from a Report of the second Judge of the Bareilly Court of Circuit, dated the 9th June, 1817.

Par. 120. Under our regulations a good deal of inconvenience (more than is necessary) may be experienced by just prosecutors and witnesses, and much malice reeked on their victims by unjust prosecutors, from the postponement of trials from one sessions to another.

121. It is understood, that two sessions may, or rather must, be passed over if the prosecutor attend not, and it is only at the third session that on no prosecutor appearing, the prisoner shall be liberated, as it is termed, by proclamation: thus is the power of eighteen months imprisonment put into the hands of every man who by evidence brought before the magistrate, gets the prisoner committed for trial, independent of the period which may have been occupied by the magistrate during the examination of the case. This is rather too much to put into the hands of private malice, and at it's option. I believe a case of the kind remains at Furruckabad, now passing to a third sessions, (at least if reviewing the magistrate's late reports, I can judge from a similarity of names and remoteness of dates,) which was first postponed by me on my late circuit, not from any failure of evidence on a particular point presumed attainable; not from the indication of any further useful testimony, but from the entire failure of any prosecutor and any witness on the one side: this is highly prejudicial to justice, giving over to individuals the chastising power of the law, and will be found in general to be executed by unjust men, and by oppressors who dare not face a Court of justice, but who do not scruple to revenge themselves clandestinely on the objects of their vindictiveness under color of the law.

122. On the other hand, the notice given of the approach of the Court of Circuit is generally so short, and where there may be few commitments, their stay may be so little prolonged, that when the prosecutor and his witnesses may have had occasion to go into neighbouring districts, or as retainers of the army into distant districts, even to very remote districts, or into foreign countries,

* See No. 132, Part II.

they have no time to enable them to attend; they may come—the sessions is over; they may come a second and a third time, and the same may happen, and perhaps a real criminal may escape.

123. It is very desirable to provide so as to check each of these very opposite evils. There seems an easy mode of accomplishing both these desirable points: that the causes shall not be postponed to a future sessions on the judge of circuit leaving a particular station, but that any trial unconcluded from the above causes, shall on the appearance of the prosecutor and witnesses, be sent with the record, the prisoner and his witnesses, to the district where the Court holds the sessions immediately succeeding, there to be tried: the same as is authorized, and under permission, practised regarding the Calendars of the north division of Seharunpore, and other parts.

No. 201.

To the Courts of Circuit,

April 20, 1818.

It having been represented to the Nizamut Adawlut, that prisoners tried and acquitted by the Courts of Circuit, are sometimes detained in custody by the magistrates and joint magistrates, notwithstanding such acquittal, under requisition of security for good behaviour; and it appearing proper, that the Courts of Circuit should be duly informed of the grounds on which prisoners acquitted by them are detained in such cases; the Court of Nizamut Adawlut, with the concurrence of the Honorable the Vice-President in Council, desire you will communicate the following instructions to the several magistrates and joint magistrates within your division.

2. Whenever a magistrate or joint magistrate may see grounds for detaining in confinement a prisoner acquitted and ordered to be discharged by a Court of Circuit, he is required immediately to certify the same, together with a copy of his proceedings, for the information of the judge of circuit by whom the discharge of the prisoner may have been directed.

No. 203.

To the Courts of Circuit.

April 28, 1818.

It having been represented to the Court of Nizamut Adawlut, that when prisoners formerly apprehended and discharged, may stand committed to take their trial before the Courts of Circuit, on the charge of another offence, it would be useful to annex a re-

port of the cause of their former apprehension, and of the result, to the magistrate's proceedings in the new trial, the Court desire, that you will instruct the several magistrates within your division, whenever they may have occasion to commit for trial, a prisoner who has been formerly apprehended, to attach to their proceedings a report from their principal native officer in the Foujdarry department, countersigned by themselves, stating concisely the date and ground of the former apprehension of each prisoner, and the issue of the case.

2. The Court observe, that the adoption of this measure may sometimes be attended with benefit to a prisoner, by shewing that his former apprehension was on inadequate grounds, and that he was acquitted and released unconditionally.

3. On the other hand, should the evidence against the prisoner, on the new trial, be not sufficient for his conviction, but enough to warrant suspicion of his general character and livelihood, the report in question will enable the Courts of Circuit, to refer more readily to the former proceedings, and to determine upon the propriety or otherwise of directing, that the prisoner be required to give security for his future good behaviour.

4. You are desired to transmit a copy of this letter to the several magistrates and joint magistrates of your division, for their information and guidance.

No. 204.

To the Zillah and City Magistrates and joint Magistrates.

July 2, 1818.

I AM directed to transmit for your information and guidance, the accompanying copy of a letter addressed on the 23d ultimo, by the acting Chief Secretary to Government, to the magistrate of zillah Purnea.

(COPY.)

I am directed by the Honorable the Vice-President in Council, to acknowledge the receipt of your letter of the 10th instant, forwarding copies of a correspondence which has taken place between you and Mr. Davidson, the surgeon attached to the civil station of Purnea.

2. On a full consideration of the questions discussed in that correspondence, the Vice-President in Council is of opinion, that it would be objectionable to require the surgeons, attached to civil stations, personally to perform the duty of inspecting previously to their removal, the bodies of all prisoners reported to have died in the jail; it appears to the Vice-President in Council to be suffi-

cient, that the orders issued on this head, on the 4th July 1801*, be regularly adhered to; that the native doctors be selected with due attention to their qualifications; that the surgeons furnish to the native doctors such precautionary instructions as may be calculated to guard against the future occurrence of an accident of the same nature as that which led to the present correspondence; and that in any case in which there may appear, to the native doctor or other officers associated with him, to be the slightest doubt with regard to the actual death of a prisoner, the body be not removed until it shall have been examined by the surgeon himself.

No. 205.

To the Courts of Circuit.

July 16, 1818.

I am directed by the Court of Nizamut Adawlut, to transmit for your information, the accompanying copy of circular instructions to the zillah and city magistrates issued on this date, relative to the confinement of prisoners in the public jails.

To the Zillah and City Magistrates, July 16, 1818.

In pursuance of instructions from Government, dated the 30th ultimo, I am directed by the Court of Nizamut Adawlut, to transmit for your information, the accompanying extract of a letter from the secretary to the Medical Board, relative to the jails at Mooradabad; and to desire you will adopt as far as practicable, and consistent with the safe custody of the prisoners under your charge, the suggestion contained therein, viz. that the close confinement of prisoners in their wards at night be restricted to those whose cases are under reference to the Court of Nizamut Adawlut; to convicts under sentence of perpetual imprisonment; and to other prisoners of notorious bad characters.

2. The Court are further of opinion, that a discretion may be exercised by the magistrates in the confinement of prisoners whose trials are under reference to the Nizamut Adawlut by exempting from the above restriction, any prisoners whose close confinement may not appear necessary for their safe custody.

3. You will of course understand these instructions to be in extension of those communicated to you, through the Courts of Circuit, in a circular letter from the Nizamut Adawlut, dated the 1st March 1815†; and you are desired in all cases, as therein directed, to adopt such precautions as may be necessary for ensuring the safe custody of the prisoners.

* No. 26 of June 29th 1801 seems to be the circular here alluded to.
† See No. 145.

Extract of a letter from the Secretary to the Medical Board, under date the 20th June 1818.

II. Although the Board are fully satisfied that the unhealthiness in these jails is almost wholly to be attributed to the causes assigned above; and only to be removed by a decrease in the number of the prisoners or the enlargement of their places of confinement; they still think it right to notice some points of minor consideration hinted at by the surgeon, more as subjects of discontent to the convicts, than as (in their opinion) very solid grounds of complaint.

First.—Confinement of the prisoners in their wards at night. This arrangement which is a subject of very general dissatisfaction, was adopted some years ago, in consequence of an attempt on the part of the prisoners to break jail. It extends to all persons whose period of imprisonment exceeds one year, and must unquestionably be a source of serious uneasiness and discomfort; and when the wards are crowded during hot weather, tend to generate disease. If it were found possible to limit this practice, without interfering with the due management of the prisoners, and necessary economy of the jails as places of punishment, the Board would certainly recommend its being in future restricted, as in former times, to persons whose cases are referred to the Court of Nizamut Adawlut, to those condemned to perpetual imprisonment, and other notoriously bad characters.

No. 207

*To the Zillah and City Magistrates.**

August 20, 1818.

In pursuance of Section 2 Regulation XIV. 1816, the Court of Nizamut Adawlut direct me to transmit for your guidance, the following additional rules for the management of your jail, which have been sanctioned by the Governor General in Council, on the recommendation of the Nizamut Adawlut; and which, as you will perceive, relate to the subject of the 10th Clause of Part 2, of the printed jail rules; and are to be observed in addition to the rule specified in that Clause.

"The fetters to be used in the public jails, which are directed to be of a light and uniform construction, shall consist of two bars, connected by a moveable ring, and fastened to the legs by rings, in such a manner as to allow sufficient freedom of motion. Those in ordinary use shall not exceed in weight one seer and a half, (the seer being that of eighty siccas,) and the magistrates may

* A copy of this letter was also sent on the same date to the Courts of Circuit

cause fetters of less weight to be used, whenever it shall appear safe and proper, with reference to a prisoner's age, size, strength, or state of health or to his general behaviour and character. This rule however is not meant to preclude the use of heavier fetters in cases of an attempt to escape, or disorderly conduct, for which the substitution of heavy fetters is expressly authorized by by Section 6, Regulation XIV. 1816."

No. 209.

To the Courts of Circuit.

October 30, 1818.

I AM directed by the Court of Nizamut Adawlut, to transmit to you for the information and guidance of the several magistrates (or joint magistrates) subject to your authority, the accompanying copy of a letter from the Secretary to Government in the Judicial Department, under date the 16th instant.

It is requisite that this should be circulated without delay.

Copy of a Letter from the Secretary to Government in the Judicial Department, dated the 16*th October* 1818, *to the Acting Register of the Nizamut Adawlut.*

I am directed by His Excellency the Most Noble the Governor General in Council, to acknowledge the receipt of a letter from you, dated the 17th ultimo, with its enclosures.

2. Under the circumstances mentioned by the Court, the Governor General in Council is pleased to authorize the several magistrates throughout the Lower and Western provinces, to furnish to prisoners under examination, or committed for trial, and generally to all other prisoners, who may from indigence be unable to supply themselves, the same quantity and description of clothing, as is at present, or may hereafter be authorized, for those prisoners who are strictly denominated convicts.

3. The magistrates will exercise their discretion in furnishing such articles for the prisoner above alluded to, with reference to their real wants and necessities, whether at the time at which the prisoners may first be brought in, or at any other periods during their confinement.

4. The Governor General in Council entirely concurs with the Nizamut Adawlut, in the suggestion contained in the 6th paragraph of your letter; and he is accordingly pleased to authorize the magistrates of the several stations within the divisions of Benares and Bareilly, to furnish annually an additional blanket to the prisoners under their charge, beyond the articles at present allowed.

5. The Court are requested to communicate the purport of this letter through the Courts of Circuit, for the information and guidance of the several magistrates.

6. A copy of the correspondence will be sent to the civil auditor from this office, for his information and guidance.

7. I have the honour to return the accompanying original documents, which are not required for record in this office.

No. 210.

To the Several Magistrates (and Joint Magistrates.)*

November 19, 1818.

It has appeared to the Nizamut Adawlut, advisable to reconsider the circular order issued to the several magistrates, under date the 23d July last, on the subject of confining in irons, all prisoners committed for trial on charges of burglary. With reference to some new rules soon to be enacted for modifying the punishment of burglary, and to the trivial quality of the offence in some instances, which are nevertheless unavoidably classed under a description importing serious guilt; it appears expedient, that you should exercise your discretion as to confining prisoners charged with burglary in fetters, or not, according to the nature of the offence charged, and the character and circumstances of the individual prisoner; having in view merely to ensure the prisoner's safe custody.†

No. 211.

To the Courts of Circuit.

December 11, 1818.

I am directed by the Court of Nizamut Adawlut, to transmit to you the accompanying copy of a letter from the Secretary to Government in the Judicial Department, under date the 27th ultimo, with its enclosures, including rules proposed by Mr. Shakespear, superintendent of police in the Western provinces, with respect to the working and employment of prisoners.

2. You are requested to report your opinion to the Nizamut Adawlut, on the several points contained in the rules proposed, as well as on the points noticed in the several paragraphs of Mr. Secretary Bayley's letter.

3. It is of consequence, that your report on this subject should be forwarded with all convenient expedition.

* A copy of this letter was, on the same date, sent to the several Courts of Circuit.

† See No. 32, Part II.

4. The rules proposed by Mr. Shakespear were, of course, only meant by him to be applied to the Western provinces, his functions extending no further; but your opinion is desired how far those rules, or any part of them, are generally applicable, as well as how far you think the magistrates should be left to their discretion on this subject.

Copy of a Letter from the Secretary to Government in the Judicial Department, dated the 27th November, 1818, *to the Acting Register of the Nizamut Adawlut.*

I am directed by His Excellency the Most Noble the Governor General in Council, to transmit to you the accompanying copy of a letter from the superintendent of police in the Western provinces, dated the 3d ultimo, together with a copy of its enclosure.

2. The Court of Nizamut Adawlut are requested to take into their consideration, the rules proposed by Mr. Shakespear for the guidance of the magistrates in the Western provinces, with regard to the employment of prisoners on the public roads; and after making any further inquiries which they may judge necessary, to submit them again to Government with any additions or alterations which the Court may judge proper.

3. The only points in those rules to which the Governor General in Council thinks it necessary to advert on the present occasion, are first, the use of chains in the mode suggested by Mr. Shakespear in the 8th paragraph of the document which accompanied his letter; and secondly, the expediency of substituting huts or chuppers in lieu of tents, for the accommodation of the prisoners during the rainy season.

4. With regard to the first point, it may be remarked, that the rule proposed by Mr. Shakespear would, in its operation, subject the prisoners to greater inconvenience and hardship, than those to which they are liable under the additional jail rules, sanctioned by Government on the 18th of April, 1817, and which limit the number of convicts to be secured by the same chain passing through the ring of their fetters, to ten, or at the utmost to twenty individuals.

5. Even under the modified rules last adverted to, the Governor General in Council is desirous of ascertaining distinctly, whether the prisoners so confined, are individually precluded from rising or from changing their position at pleasure, or whether it operates in any other way as an undue aggravation of the sentence passed upon them.

6. It will also merit consideration, whether the number of individuals who may at present be linked together by a single chain, may not be still further reduced; and whether sufficient security

against escape, may not be obtained by having separate chains run through the links of the fetters of every five or six prisoners; such to be secured by good padlocks?

7. The Court of Nizamut Adawlut will of course require from the local authorities, any further information which they may judge necessary on the foregoing subject, or on any other points noticed in the rules suggested by Mr. Shakespear.

8. With regard to the second point, it is observed by Captain Barron in the 2d paragraph of a letter from him, dated the 27th ultimo, which was on the 20th instant forwarded to the Nizamut Adawlut, that huts to be supported on wooden posts, and with chuppers made of light materials, might be constructed in a form which would admit of their being carried by the prisoners from place to place, whenever required. The Governor General in Council is inclined to think, that such huts would be preferable to tents during the rainy season, when hazard of fire would be diminished, and when they would furnish a better protection from the occasional violence of the rain than tents.

6. Whatever rules may be eventually adopted with regard to the employment of prisoners at work on the roads at a distance from the sudder station, it will, in the judgment of Government, be proper to invest the magistrates with a discretionary authority, to modify them in their practical application when circumstances may render it necessary, subject to the approbation of the Court of Circuit of the division, to whom an immediate communication should be made by the magistrates whenever they may judge it proper, for special reasons, to deviate from the prescribed course of proceeding*

Copy of a Letter from the Superintendent of Police in the Western Provinces, dated the 3d October 1818, to the Secretary to Government in the Judicial Department.

With reference to the provisions of Section 17, Regulation XVII 1816, by which my office is vested with a controlling authority over the public roads, I beg to submit the accompanying paper, containing some remarks respecting the employment of prisoners, which I am desirous of circulating to the magistrates in these provinces, provided that the measures meet the approbation of Government.

2 Some of the remarks contained in this document, though apparently trivial and common-place, would nevertheless prove of service in many of the districts of these provinces.

3 I have frequently observed convicts employed on the roads, without any adequate means of performing the work imposed up-

* This circular though it contains no rule of practice has been retained as the "Remarks" may still be of use to young magistrates.

on them. I have seen parties of prisoners with only one or two kodalees among twenty men, and without baskets or beaters, making a road, the earth for which has been carried in their hands, and trod down with their feet.

4. The tents and implements proposed to be furnished to the prisoners are of the most common description, and if the magistrates are empowered to enter the expence in their contingent accounts, the charge will not, I conceive, be a point of any moment.

Remarks respecting the working and employment of Prisoners.

1. All prisoners sentenced to labour, whose removal from the sudder station is not prohibited, should be sent out on working parties.

2. In order to keep the different classes of prisoners distinct, those sentenced by the Court of Nizamut Adawlut and Court of Circuit, should be worked in one party; those by the magistrate or his assistant in second: and those imprisoned under the requisition of the magistrate to find security, in a third.

3. The regular jail should be used solely for the imprisonment of persons committed for trial before the Court of Circuit, or sentenced by the Court of Nizamut Adawlut and Court of Circuit, to specific periods of confinement, or detained by the orders of those Courts for security. Persons sentenced by the magistrate, or his assistant, should invariably be sent out and kept in tents, by which means, much of the evils at present experienced from promiscuous intercourse and corruption would, it is conceived, be avoided. Those persons detained under the orders of the magistrates to furnish security for future good behaviour, should be kept in the immediate vicinity of the sudder station, so as to admit of their tendering security without delay, whenever they may have the means of doing so.

4. The tents for the accommodation of prisoners, should be made of strong taut, after the fashion used by the regular sepoys, and sufficiently wide to admit of two persons lying across foot to foot: tents are preferable to huts or chuppers, the latter being liable to accident from fire.

5. Experience has shewn in various instances, that prisoners kept in tents throughout the year, are more healthy than those confined in the jails. The tents above described, though less costly, will keep out the rain and sun as effectually as those used by the sepoys, and will afford sufficient protection at all seasons. In proof of this remark, it may be observed, that detachments of sepoys are frequently employed out during the rains and hot winds in tents, and that the banjarees conveying grain and salt, and many other merchants and travellers, have not even this security against the inclemency of the weather.

6. Prisoners employed on working parties, should be portioned out in gangs of 20 men to each gang, one of the number being selected as a mundul, or head man, to control the labour of the rest.

7. The quantity of work to be performed by each gang, should be measured out with a pole in the morning; and the gangs should respectively be allowed to retire from work as they complete their tasks.

8. During the night, the prisoners kept in tents, should be secured by a chain carried through the rings of their fetters, and fastened at a distance of six feet, on each side, from the extremity of the tents, to strong stakes driven into the ground, and secured by padlocks; a guard being stationed over each stake.

9. Working parties employed on the roads, should be supplied with the following implements:—

One or two poles or bamboos with each party, eight hauts in length, for the purpose of measuring off the tasks imposed on each gang.

A due proportion of twine and pins for marking out the work.

To each party of 100 men employed in the construction of new roads two forms made of plank, to be placed across the road at given distances apart, for the purpose of guiding the prisoners and ensuring the uniform construction of the work, the space between the two planks being filled up with earth to a level with the upper edge of the forms.

Kodalees or phaoras, in the proportion of two for every three men.

Pickaxes, in the proportion of one to three kodalees, whenever kunkur stone is to be removed.

Bills or axes, one for every fourth man, when new roads are to be carried through tree jungles.

Hand-baskets for raising the earth—one for every third man.

Beaters or doormusses, made of any heavy wood, with a handle of the same material or of bamboo, six feet in length—one for every fourth man.

For every party consisting of 100 men, a roller, not less than from 2 to 3 feet in diameter, and from 8 to 10 feet in length, to be constructed of the shaft of a tamarind tree, or any other wood equally heavy, and to be pulled by bars and light chains, rather than by ropes, the latter requiring constant repair.

In the excavation of earth for the roads it is better, that it should be scraped from the ditches, or from the adjacent land, than that holes or pits should be dug near the road.

Embankments and other works of earth intended to be rendered of permanent use, should, as far as may be practicable, be sodded with turf, or covered with the roots of the doobgrass, mixed with mould, and then beaten and watered.

No. 215.

To the Courts of Circuit.

January 25, 1819.

THE Court of Nizamut Adawlut direct me to call your attention to a circular letter written by their order to the several Courts of Circuit, under date the 12th August 1813*, on the subject of being in possession of property obtained by theft or robbery, as distinguished from the offence of knowingly receiving property so obtained.

2. Against this offence of knowingly receiving property obtained by theft or robbery, the penalties of Sections 7 and 8, Regulation I. 1811, (now superseded by the provisions contained in Section 5, Regulation XII. 1818,) were particularly directed.

3. With respect to the act of having possession of property obtained by theft or robbery, without having received it with the knowledge that it was so obtained, such knowledge having only subsequently arisen; it was mentioned in the last paragraph of the circular letter above alluded to, that this act was "of course punishable under the Mahomedan law and the regulations;" but by this it was not intended to declare, that it was in every instance punishable, as it must obviously depend on the circumstances of each particular case, whether the act in question is, or is not, a criminal offence.

4. Where it is determined, on the circumstances, to be an offence, and is left punishable by the futwa at discretion; (as the act is evidently of a very different complexion from that of being a criminal receiver of stolen goods, and thereby a principal encourager of goods being stolen;) it is the opinion of the Nizamut Adawlut, that it should be punished as a misdemeanor not of a very serious nature; and that the sentence should by no means be made the same with that hitherto appointed for the offence of knowingly receiving stolen property, namely, seven years' imprisonment with stripes; which, however, has been observed in some of the abstract statements of prisoners punished without reference, lately transmitted.

5. In instances which may hereafter come before the Courts of Circuit, and in which the fact of possessing or keeping possession of property acquired as above stated, may be determined, on the circumstances, to be a criminal offence; it appears to the Nizamut Adawlut that, viewing it as a common misdemeanor, a sentence equal to that to which the magistrates are limited by the new Regulation XII. of 1818, is sufficient in most cases, as a maximum of punishment: accordingly, in any instance where a higher

* See No. 124.

penalty may be adjudged, the Nizamut Adawlut desire, that a particular statement of the grounds of such sentence may be inserted in the abstract statement of prisoners punished without reference.

6. From the remarks contained in the foregoing paragraphs, it will be seen how essential it is, in the trial of charges for receiving stolen property, or property acquired by robbery, not only that the evidence to ground a conviction, should go to the mode and circumstances of the receipt, and not to the mere fact of possession; but also that the law officer, where it is intended by him to convict of the criminal receipt, should specify the same clearly and precisely in the terms made use of in the futwa.

7. By the fourth clause of Section 4, Regulation XII. 1818, it is provided, under the circumstances there stated, that the fact of having possession of property acquired by theft or robbery, the knowledge that it was so acquired having only arisen since the receipt of it by the possessor, may be punished by the magistrate with a period of imprisonment not exceeding two years, and corporal punishment not exceeding thirty rattans. Under the discretion which this rule allows to the magistrate, and the construction of it which the Court of Nizamut Adawlut have adopted, the magistrate is considered to have a discretion not to punish at all, in cases in which no criminal act shall appear to be fairly imputable to the *bonâ fide* purchaser or possessor of property acquired by robbery or theft.

8 You are requested to circulate a copy of this letter for the information of the several magistrates within your division.

No. 217.

*To the Courts of Circuit in the Lower Provinces**.

April 20, 1819.

7. With regard to one of the principal evils of the existing system, to which I before adverted, namely, the exposing on the roads, and perhaps in irons, persons under sentences for short periods and not for heavy offences, the Court have reason to believe, that more caution is necessary on the part of the magistrates, under the rules now existing, than is observed in some zillahs; and until some new restrictions, which appear requisite, shall be circulated on this head, you are requested to enjoin great caution to the several magistrates within your division, with a view that they may not work on the roads persons unfit to be so exposed from their previous habits, or the nature of their offence; and especially, that

* Only the two last paragraphs (7 and 8) contain any rule or caution and which has been extended to all persons guilty of misdemeanor—See No. 223.

they will be as cautious in the use of fetters as circumstances will admit, under the discretion given by the circular orders of the 11th March 1813.

8. The immediate cause of the remarks in the preceding paragraph, was the case of a jemadar and two sepoys lately sentenced to three months' imprisonment by a magistrate, for a criminal assault on a police officer; the first without, the two last with hard labour; these two, it is apprehended, were worked on the roads. As far as regards this latter point, the Court could have wished it had been otherwise; for it was not an offence of enormity, or in its nature infamous; and the effect of such exposure on a soldier cannot have been good. Without allowing to individuals of this class any undue preference in our criminal Courts over the rest of the community, it is still reasonable and just, in awarding discretionary punishment in cases of misdemeanor, and is indeed requisite for the proper apportioning of such punishment, that due regard should be paid to the habits and feelings of the class to which the offenders belong.

No. 223.

To the Courts of Circuit in the Lower Provinces.

August 27, 1819.

In addition to the general caution conveyed in paragraphs 7 and 8, of my letter to your address, under date the 20th April last,* the Nizamut Adawlut have thought it necessary to resolve, that the magistrates be generally restricted from passing a sentence, in cases of misdemeanor, for fetters being placed on the offender; and that fetters shall not be used in such cases, except in the event of special necessity arising out of bad conduct of the offender during his imprisonment, which may make such restraint indispensable for his security. The magistrates, therefore, in placing fetters, under this restriction, on any person convicted of misdemeanor, will record on their proceedings the grounds of the measure in each case.

No. 224.

To the Courts of Circuit in the Western Provinces.

August 27, 1819.

With reference to certain instances which have lately come under the notice of the Nizamut Adawlut, of persons sentenced by the magistrates in cases of misdemeanor, having been worked on

† See above.

the roads, and put into fetters, when such exposure was not necessary or proper, with reference to the offence committed, and the class or profession of the offender; I am directed to communicate, for the information and guidance of the magistrates in your division, the enclosed extracts (paragraphs 7 and 8*) from a circular letter, under date the 20th April last, addressed by order of the Nizamut Adawlut to the Courts of Circuit in the lower provinces.

2. I am further directed to communicate, that the Court have now resolved, that the magistrates shall be restricted generally from passing a sentence, in cases of misdemeanor, for fetters being placed on the offender; and that fetters shall not be used in such cases, except in the event of special necessity arising out of bad conduct of the offender during his imprisonment, which may make such restraint indispensable for his security. The magistrates, therefore, in placing fetters under this restriction, on any person convicted of misdemeanor, will record on their proceedings the grounds of the measure in each case.

No. 228.

To the Courts of Circuit.

January 7, 1820.

THE Court observing, that in trials for murder, an uniform practice is not observed by the several Courts of Circuits, in obtaining the exposition of the law from the law officer presiding at the trial; that in some of the Courts an additional question is put to the law officer whether the crime of wilful murder is proved against the prisoner or prisoners, or any of them, to which the law officer subscribes a distinct concise answer, that it is proved, or that it is not proved, after which the law officer is called on for his general futwa in the case; but that, in other Courts, this course is not regularly pursued; and the Court deeming the practice above described to be best calculated to remove all doubts regarding the intention of the law officer; I am directed to desire, that it may be uniformly pursued hereafter, throughout the several Courts of Circuit.

No. 229.

To the Courts of Circuit.

January 14, 1820.

I AM directed by the Nizamut Adawlut to transmit, for your information and guidance, and that of the several magistrates in your

* See No. 217 for these Paragraphs.

division, the enclosed extract (paragraph 2) from a letter to my address from the Chief Secretary to Government, under date the 31st ultimo, occasioned by a reference from Mr. Courtney Smith, and connected with the visits of the judge of circuit to the jails of the different stations at the periodical sessions.

You are requested to instruct the several magistrates accordingly.

Extract of a Letter from the Chief Secretary to Government, under date the 31st December 1819.

Par. 2. No practical inconvenience is likely to result from the armed attendants of a judge of circuit accompanying their master on the occasion of his visiting the jails, and it will be sufficient, that the magistrates be instructed to apprize the European or native officers commanding the guards stationed at the jails, that the rule precluding the admission of armed men into the jails, is not intended to apply to persons whom the judge of circuit may take with him on his visits to the jails. To prevent the chance of any mistake, however, the magistrates may be conveniently directed to repeat this notification on the arrival of the judge of circuit at the station, or at the commencement of each sessions of jail delivery.

No. 233.

To the Courts of Circuit in the Western and Lower Provinces.

May 8, 1820.

I am directed by the Court of Nizamut Adawlut to desire, that in all cases henceforward in which a prisoner may be convicted of any crime which would render a reference to this Court necessary, but the sentence of punishment be declared by the futwa of the Mahomedan law officer to be barred or liable to modification, in consequence of the insane state of the prisoner's mind, the judge presiding at the trial will invariably submit his proceedings, together with the magistrate's proceedings held on the commitment of the prisoner, to this Court for revision and final sentence.*

No. 234.

To the Courts of Circuit.

May 19, 1820.

I am directed by the Nizamut Adawlut to forward, for your information and guidance, and for the purpose of being communicated to the several magistrates within your division, the enclosed copy of a letter addressed by order of this Court to the magistrate of

* See No. 307, also No.* —— Part III., dated 27th September 1844.

Juanpore, on the 5th instant, together with a copy of the letter in reply to which it was written :—*you will perceive that it contains a* construction of Regulation III. 1820.

Copy of a Letter addressed to the Magistrate of Juanpore, dated the 5th May 1820, by order of the Nizamut Adawlut.

The Nizamut Adawlut have had before them your letter dated the 26th ultimo.

2. I am directed to state in reply, that the provisions of Regulation III. 1820, appear to the Court restricted to prohibiting compulsory exaction of the service of individuals as porters or coolies, in aid of travellers or marching troops; that the prohibition extends, first, to such service being compelled by travellers or marching troops; and secondly, to its being compelled for them, by the civil authorities; that, with the last exception, the rules of Regulation XI. 1806, stand as they were.

Copy of a Letter from the Magistrate of Zillah Juanpore, dated 26th April 1820, to the Register of the Nizamut Adawlut.

The word begaree being applicable to all sorts of labourers and artisans forced to work at an arbitrary rate, I request to be informed, whether Regulation III. 1820, is intended to extend to hackery drivers, bullock drivers, bangy-wallahs, and bearers, as well as other descriptions of persons usually pressed for the assistance of travellers and marching troops, or is merely applicable to coolies or porters; and, in that case, whether the magistrate is to comply with commissariat requisitions for carriage, bearers for carrying hospital dhoolies, and other descriptions of persons required on a march, or by individuals.

No. 238.

To the Courts of Circuit in the Western and Lower Provinces.

August 18, 1820.

I AM directed by the Nizamut Adawlut to communicate to you the following instructions, for the guidance principally of the several magistrates in your division, with regard to the working and employment of prisoners in confinement in the criminal jails, under sentences for misdemeanor, as distinguished from those under sentence for more serious crimes.

2. In the instructions of the Court under date the 27th August last*, the several magistrates were prohibited from making fetters a part of the sentence in cases of misdemeanor, and were directed not to have recourse to them in such cases, except as a means of

* See Nos. 223 and 224.

coercion for misbehaviour of the offender during imprisonment, such as to make them requisite for his security.

3. As to the mode of employment during imprisonment in all such cases of misdemeanor, the Court desire it to be assumed, as the principle on which the magistrates are to act, that in these cases, the reformation of the offender is the principal end in view, and not public exposure by way of example, the latter object being reserved for higher crimes. Accordingly, in each class of cases, a distinction should be made as to private and public labour; the private labour, for cases of misdeamcanor and minor offences, to consist of beating soorkee, making baskets, mats, bags, or any thing of easy fabric, in the jail, or in some shed near it; while labour on the public roads, or on public works, is reserved, as at present, for offences of more serious cast.

4. It is not intended by these instructions to lay down precise rules as to the mode of employment to be pursued by the respective magistrates; but to state the general principle of private labour, which it is desirable that they should adopt, leaving them to follow it up in such mode as their discretion, under local circumstances, may point out as practicable.

5. Persons in confinement under requisition of security, in pursuance of Sections 9 or 10, of Regulations VIII. 1818, as of dangerous and irreclaimable character for theft or robbery, should be subjected as hitherto to public labour; but all others detained for security as vagrants, or otherwise, should be subjected only to private labour,

6. It is not intended, generally speaking, to include under provisions for private labour cases of robbery, burglary, aggravated theft, forgery, perjury, or any other heinous crime, in the sentence for which, by whatever authority passed, labour is included; though there may still be cases in which the Court passing the sentence may think it right to make special exceptions.

7. It is recommended, that the Courts of Circuit, in passing sentences which include labour, should specifically state private labour, in cases where they may deem it more advisable than labour on the roads or public works, with reference to the nature of the offence, or circumstances of the offender; and the same mode will be followed by the Nizamut Adawlut.

8. It will rest with the magistrates, in convictions before themselves for petty theft, to direct private or public labour, as the circumstances may seem to require; adopting the first, however, in all practicable cases.

9. The magistrates are authorized, where they may deem it advisable, to allow to each prisoner, as an incitement to industry, one-fourth of the monthly produce of his private labour, over and above all allowances which he would otherwise receive.*

* Increased to half the produce of their labour.—See No 252.

10. *In conjunction with any plan, which the magistrates in your* division may adopt, for private labour in the mode proposed, the Court wish to enjoin a due observance of the rule contained in Regulation XIV. 1816, which intrusts the magistrates with power to recommend to the Nizamut Adawlut a remission of punishment, partial or total, for good conduct. To such recommendations the Court will, of course, be always ready to pay due attention.

11. At the close of each periodical circuit, the judge who had held the sessions will notice in his report, for the information of the Nizamut Adawlut, and of Government, the progress made at each station, towards carrying the present orders into effect; pointing out any plan adopted at a particular station, which in his opinion may merit imitation at others. The same information is required half-yearly from the judge of circuit, at those stations, where monthly sessions are held.

12. In conclusion, I am directed to mention, that it is the intention of Government gradually to take measures for remedying the defects of the criminal jails in those districts where they do not sufficiently admit of the separation of prisoners, according to their respective classes, as prescribed by the regulations, and circular orders of the Nizamut Adawlut.

13. You are requested to communicate copies of this letter for the guidance of the several magistrates and joint magistrates in your division.

No. 239.

To the Courts of Circuit in the Western and Lower Provinces.

September 1, 1820.

The Nizamut Adawlut direct me to request, that hereafter, in the abstract statements of sentences passed without reference, the judge of circuit will make it a rule to state, with regard to convictions for theft, burglary, or receipt of stolen property, what were the circumstances which induced commitment to the Court of Circuit, and took the cases out of the magistrate's competence to pass sentence.

2. There are many cases in which the abstract statements, as now made out, necessarily show this; but there are also many in which the Nizamut Adawlut have no means of seeing why the cases were committed, or whether the commitments were proper.

3. With a view to facilitate a compliance with this order, the Courts of Circuit are desired to instruct the several magistrates within their division, to make a point of recording, on their roobucarees of commitment, the express circumstance or circumstances of aggravation, which may have led them to commit the

case, instead of disposing of it themselves, under Regulation XII. of 1818.

No. 240.

To the Magistrates and Joint Magistrates in the Western and Lower Provinces.

September 8, 1820.

As connected with the subject of the circular letter to the Courts of Circuit, under date the 18th ultimo, which will have been communicated for your information and guidance; I am directed to forward, for such use as you may deem it advisable to make of the information contained in it, the enclosed copies of correspondence between the Judicial secretary to Government, and the late joint magistrate (Mr. Middleton), stationed at Futtehpore, together with an extract (paragraph 9) of a letter from Mr. Secretary Bayley to the register's address, under date the 1st April last.*

Extract of a Letter from the Chief Secretary to Government, to the Register of the Nizamut Adawlut, dated 1*st April,* 1820.

Par. 9. As it does not appear, that the Court of Nizamut Adawlut have been furnished with copies of the whole of the correspondence, which passed between Government and Mr. Middleton, the joint magistrate at Futtehpore, on the subject of the measures pursued by him for employing the convicts under his charge, in a manner calculated to give them habits of useful industry, and to meet, in some degree, the expense attending their imprisonment; I am directed to transmit to you the documents noticed in the margin†.

Copy of a Letter from the Acting Magistrate of Zillah Allahabad, dated the 9th December 1815, *to the Secretary to Government.*

I have the honour to forward an original letter to your address, from the joint magistrate of the district, dated the 7th instant.

Copies of the Correspondence between the Joint Magistrate at Futtehpore and the Government, on the subject of the Measures pursued by him for employing the convicts under his charge.

The constant and anxious attention which has ever been devoted by Government to subjects connected with the welfare and

* This circular contains no rule of practice but it has been retained as it is an interesting account of the first attempt to introduce the manufacture of cloth among convicts and the result.

† Criminal Consultation 1816, 24th May, Nos. 1, 2 & 4.—Criminal Consultation 1816, 25th October, Nos. 21 & 22.

prosperity of the people of this country, and the patronage which has invariably distinguished those plans which promise to advance the public interests, encourage me in the hope, that the following details will not prove entirely uninteresting to the Right Honorable the Governor General in Council.

2. In the month of February 1814, my attention was particularly directed to the mode in which persons are employed, who are sentenced by the magistrate to confinement with labour. It occurred to me, that the system was susceptible of very considerable improvement, and I communicated this opinion to the magistrate of Allahabad, at the same time expressing a very anxious wish to ascertain, by actual experiment, the possibility of making the labours of the convicts more productive, both with a view of advantage to Government, and the correction of the individual. To those who regard with approbation every attempt (however humble) to be useful, the little history of my inquiries may be submitted without apprehension.

3. Having obtained Mr. Fortescue's permission, I selected a spot of ground in the immediate neighbourhood of his residence, which I surrounded with a high wall. I provided the necessary utensils for the manufacture of the coarse cloths of the country, and established two looms to be worked by prisoners from the jail, superintended by able workmen engaged for this purpose. I considered four prisoners sufficient number for the first trial; and with these I commenced operations.

4. The opposition and disappointments which I experienced in the first instance were, I must acknowledge, sufficiently numerous. Innovation is seldom welcomed even by the most enlightened; and among a people whose prejudices are in many instances insurmountable, I had every reason to expect an opposition which perseverance could alone subdue. I may perhaps be pardoned if I remark that, although I could not command success, I determined to make every personal exertion to secure it.

5. The first process of the manufacture of cloth is simple, and was learnt with little difficulty. A few days were passed in teaching the prisoners I had selected the mode of winding off laying the thread for the looms; and this being acquired, the hired weavers commenced their instructions in the use of the shuttle.

6. It was here that I experienced an opposition which it required some little time and perseverance to surmount; the work was now become more difficult, and required a considerable degree of care and attention; and the chains with which these unfortunate individuals were encumbered, proved for some time an obstacle to their exertions. By effecting, however, some slight alterations, by which the process was even still more simplified, and by a careful superintendence of the hired workmen, I had soon the satisfaction to observe a considerable and rapid improvement.

7. In one month, the four convicts first selected were so entirely masters of the new occupation, that I was enabled to choose four more, who came from the prison with the same ignorance as their companions, and who learnt with about the same facility.—I caused them to be perfectly instructed in every branch of the manufacture; and although I did not employ them in teaching those who subsequently received instructions, I am persuaded, that with these eight persons, I could now have continued the establishment, without the aid of hired workmen.

8. Encouraged by success, I continued my experiment, until I felt a conviction, that there are very few of the natives usually confined in our jails who could not acquire the art of weaving the coarse cloths of the country with little difficulty; but, as I conceived, that there are many who would succeed in finer work, I determined to convince myself by experiment, and was gratified by complete success. I have four looms worked by convicts, who have produced specimens of cloth of a very superior quality.

9. Twenty-five looms for cloths of different descriptions are now worked by convicts, in the house of industry established during my residence at Allahabad; and I am happy in being able to remark that of all the prisoners who commenced their new avocations under my superintendence, not one was dismissed on the ground of incapacity; some were necessarily more expert than others, and to these I gave all the encouragement in my power.

10. The manufacture of newar (tape) was tried, and was accomplished with the same success:—and I have also commenced the manufacture of satiingees, which promises to be equally successful.

11. I shall now take the liberty of adverting to some of the advantages which I contemplated, in the establishment of a house of industry; and, though I should have rejoiced in an opportunity of convincing myself by longer and more extensive experiment, that my opinions are correct. I trust I have something more than the mere ideal visions of a speculator, in support of a favourite and highly important theory.

12. The object of all punishment is two-fold: first, the reform of the individual; and secondly, the effect which is produced on the public mind, by the influence of the example. I beg leave to express it as my humble opinion, that an establishment of this nature will not only secure these important objects, but afford a very fair and reasonable prospect of advantage to Government, even in a pecuniary point of view.

13. Those who have considered the system of punishments, as established under our Government, will have had occasion to remark their extreme, and, I may perhaps be permitted to add, impolitic inequality. To place a petty theft committed under the impulse of want and distress, in the same scale of punishment with a daring and atrocious robbery, is an unquestionable inconsistency; and

yet I think I am warranted in asserting that, excepting the mere period of the confinement, the one offence is visited with no greater degree of severity than the other. To proportion the punishment to the offence is the duty of those in whom this high authority is vested; and that system may be pronounced to be defective in *which this object is lost sight of. I am sure there are few magis*trates who have not felt regret in the reflection that, where they have punished by confinement without labour, the sentence has been inadequate; but with labour, and, as a necessary consequence, in fetters, too disgraceful, and too severe.

14. In all cases of petty theft, abusive language, and other trifling offences, a house of industry would, I humbly conceive, be a most useful engine in the hands of a magistrate. It would give him the option of visiting offences with a proportionable degree of severity; and neither inadequately to punish, nor irretrievably to disgrace.

15. An establishment of this nature would give employment to the numbers of unfortunate children, who deserted by their parents, are left to acquire a precarious subsistence by robbery and plunder. To give an occupation to those who are guilty for want of it, and, while that employment is afforded, to separate the guilty from confirmed bad principle, from those whose offences are palliated by their youth and distress; these are considerations deserving the attention of a great and liberal Government.

16. The class of persons who have no regular employment, and who, as suspected characters, are liable to detention by the magistrate, is numerous in every district. The regulation prescribes their detention until they can afford security, or until they are engaged as servants, or employment is given them by reputable persons. I am inclined to believe, that this latter part of the enactment is now a dead letter, for I cannot find a single instance of an offender released under such circumstances. But it is surely fair to infer, that were confinement to be attended with the option of learning a respectable occupation, the reformation of the individual and the chance of acquiring employment, would come, at least, within the verge of probability. Under the present system, incarceration inculcates no habit of industry; and in the release of such persons, the magistrate can only contemplate the certainty of their renewing their depredations, rather than die of hunger.

17. The facility with which task-work can be given in such an establishment, is, I humbly conceive, of very material advantage, for many and obvious reasons. When it is considered how great a sum is annually lost to Government in the subsistence money paid to the prisoners, I can hardly refrain from expressing my surprise, that no means have hitherto been devised to reduce so heavy an expense. Placed under the charge of burkundazes, who have no interest in their labours, no object in reporting favourably or

otherwise of their exertions, often bribed to connive at idleness, and indifferent to all but the actual escape of their charge, imprisonment is rather an encouragement to iniquity, than a mode of repressing it. But in a house of industry, where the quantity of labour which can be performed by one man may be estimated *with the utmost nicety, the burkundaz* would have no excuse for not causing the execution of the prescribed task; while society would not so often contemplate the incongruous spectacle of the guard and the prisoner amicably conversing, eating, and smoking together, to the manifest injury of the public service, and contempt of all punishment.

18. The above remarks are stated on experience; and I feel convinced that by task-work much of the idleness among the convicts (so justly reprobated by the magistrates) would be repressed, while encouragement would be afforded to exertion by the conviction, that industry for half the day would ensure ease for the remainder. I had frequently the satisfaction to observe the emulation excited by a distribution of rewards to those who had continued to labour after the completion of the daily task.

19. Solitary confinement, with or without labour, was the punishment which I adopted; and although I am happy to observe, that I had seldom occasion to have recourse to it, I am satisfied that its effects were in the highest degree beneficial. This subject has already been under the consideration of Government, and I will therefore only remark, that I am so entirely convinced of the advantages of the system, particularly as connected with young children, that I shall feel no hesitation in adopting it whenever I may have an opportunity.

20 Time can alone demonstrate, whether the prejudices. of the people of India are to be subdued by the wisdom of their conquerors. I have heard it asserted that those who are not manufacturers by cast, will never be taught trade; and my establishment was exposed to the satire of those, who despair of improvement because it is seldom unattended with personal exertion, I have had the satisfaction of convincing myself, that natives of every description can and will learn a trade; and it now remains to be ascertained, whether those to whom I have given an employment by compulsion, will continue it, on their release, from inclination. I confidently believe that they will; although I must acknowledge, that my opinion rests at present upon a short and unsatisfactory foundation.

21. I shall trouble you with a very few more remarks on the subject of an establishment, which I think I may continue to superintend with advantage to Government, even on economical considerations. I have already adverted to the heavy expense which is annually incurred by this Government, in the subsistence money paid to the convicts. Two pice, or about one anna per diem, is

paid to each prisoner, and taking the average of every jail at 500 convicts, (which is I believe considerably within the number actually confined,) the annual expense for diet money amounts in each district to 11406. 4. rupees, per annum.

22. Besides this expense, a very considerable one is annually incurred in the cloths given out to the convicts by order of the Courts of Circuit. In Allahabad, the average has seldom been less than one thousand rupees for this single article, and in some districts I have understood that the amount has been considerably higher. These sums must now be considered as a positive loss to the state; for that the labour done upon the public roads in the immediate vicinity of the sudder station, can be estimated as the return for so heavy an expense, will scarcely (I think) be advanced.

23. In the course of this year, I despatched from my establishment 90 pieces of cloth of different descriptions, for the use of the convicts of the Allahabad jail; and had I thought it expedient, I could have supplied the whole quantity required. I did not comply with the magistrate's request to this effect, for the following reason:—

24. It is unnecessary to remark, that in preparing the building for the institution, in the purchase of the stock, and raw material, and the allowances of the servants and superintendents, an expense has already been incurred, which has hitherto been defrayed entirely by myself. I wished therefore to collect a property sufficient to enable me to continue the establishment, should it be approved by Government. This object may now perhaps be attained. Six hundred pieces of cloth have been prepared, and are in deposit; and should it be thought advisable to dispose this stock, a fund might be raised applicable to any future arrangement.

25. If in introducing this subject to the notice of the Right Honorable the Governor General in Council, I have trespassed against established forms; if in venturing unasked and unsolicited to form this establishment, I have quitted the direct line of duty to intrude my humble exertions where no order required, or precedent encouraged them; if even in this address, I have presumed to agitate a question which it became not my small experience to discuss; I have but little in excuse to offer. Happy if two years of anxious attention can secure me from blame, I shall quit my superintendency, if not with cheerfulness, at least without regret; for, as it commenced with the brilliant prospect of the approbation of my superiors, so it could only fulfil its objects with the protection and patronage of the Government I have the honor to serve.

Copy of a Letter from the Secretary to Government, dated the 24th May 1826, to the Joint Magistrate stationed at Futtehpore.

I am directed by the Right Honorable the Governor General in Council to acknowledge the receipt of two letters from you, dated respectively the 7th of December 1815, and the 23d of March last; and to communicate to you such orders as, on a consideration of the judicious suggestions and useful information contained in them, appear necessary.

2. The subject which you have brought under the notice of Government in this letter*, is one of acknowledged importance, which has on various occasions attracted the attention, and received the most anxious consideration of Government. Arrangements of the same nature as those described by you, have been prosecuted by several magistrates in different parts of the country, with different success, and all judicious attempts of the sort have been duly encouraged and countenanced by Government.

3. The principal objects to be contemplated in the prosecution of any plan of this nature, are first, the acquisition by the prisoners, during their confinement, of those habits of industry, and those means of exerting their industry to advantage, which may give them both the disposition and ability, on their release from jail, to maintain themselves by honest labour, and to abandon those criminal pursuits which may have led to their confinement; and secondly, that their labour while in jail may be rendered so far productive as to defray the expense incurred by Government in their maintenance during their confinement. The latter object, however desirable, is obviously one of less magnitude and importance than the former.

4. The measures pursued by you with a view to the accomplishment of both those objects, appear to have been extremely judicious; and his Lordship in Council is therefore desirous, that the further prosecution of the plan should not be abandoned, but that it should be continued as hitherto experimentally, under your own observation and superintendence.

5. His Lordship in Council is of opinion, that the persons to be employed in the manner described, should be selected from the classes of prisoners alluded to in the 14th, 15th, and 16th paragraphs of your letter, rather than from persons convicted of gang robbery and other heinous offences, who should be employed in the strict sense of the word, in hard labour on the roads, &c.

6. It only remains to desire, with reference to the last paragraphs of your letter, that you will dispose of the cloths manufactured by the prisoners under your charge to the best advantage,

* 7th December 1815 received through the Acting Magistrate of Allahabad

and to desire, that the amount may be carried to the credit of Government by the magistrate of Allahabad.

7. You will then submit a statement exhibiting the expense actually incurred by you up to the present date, in prosecuting the arrangements described in your letter, the amount of which will be then repaid to you by the magistrate of Allahabad.

8. You will also submit a statement, showing the total proceeds of the establishment compared with the expense incurred in maintaining the prisoners, in the purchase of materials, and in other incidental expenses; in order that Government may be enabled to judge, how far the net produce of the labour of the prisoners in question, is likely to defray the expense of their maintenance.

9. The progress made by you in the repair of the road, and in the construction of the bridges between Allahabad and Futtehpore, appears to be very satisfactory.

10 His Lordship in Council is sensible of the importance of maintaining that road in an efficient state of repair, as well as of the utility of the other objects alluded to in the 3d to the 7th paragraph of your letter; and he is of opinion, that the labour of 200 convicts, would be employed, under your superintendence, in the manner proposed by you, with great public advantage.—At the same time it would for obvious reasons be objectionable, to authorize you to select those convicts in the manner you have suggested in the 8th paragraph of your letter.—An extract, paragraph 1 to 9, inclusive, from your letter, will be forwarded to the Court of Nizamut Adawlut, and they will be requested to take into their consideration, the practicability of supplying from the neighbouring districts 200 prisoners of the description required by you; and if an arrangement of that nature should appear unobjectionable, to issue such instructions as they may deem requisite for that purpose.

11. The subject of paragraphs 13 to 20 of your letter having been long under the consideration of Government, and as the provisions of the regulations adverted to in those paragraphs will shortly undergo considerable modifications, it is unnecessary to reply to them, in detail.

Copy of a Letter from the Joint Magistrate at Allahabad and Cawnpore, dated the 11th September 1816, to the Secretary to Government.

In conformity with the instructions contained in your letter, under date the 24th of May, I beg leave to acquaint you, for the information of the Right Honorable the Governor General in Council, that I have completed the sale of the cloths manufactured under my superintendence by the prisoners of the Allahabad jail.

2. The price realized by the quantity of cloths manufactured, has not been so large as I originally expected, though it is sufficient to clear the debt of the establishment, and leave a considerable surplus in favour of Government.

3. The following is nearly the amount expended and accounted for, as correctly as circumstances would admit.

Building of the establishment	200		
Raw materials, ...	650		
Looms, shuttles, pay of servants of the establishment, and other miscellaneous disbursements,	100		
90 pieces of cloth delivered free of expense to the magistrate of Allahabad, ...	150		
	1,100		
Sum total realized by the sale of cloths, ...	1,920	8	10
Deduct amount expended by me, ...	1,100	0	0
Balance in favour of Government, ...	820	8	10

4. I request you will have the goodness to obtain for me the permission of the Right Honorable the Governor General in Council, to retain this balance for the present, as a fund for continuing and improving the establishment. In that case, I will furnish a half yearly account, showing the expenditure and amount of the sum realized by future sales, and the state of the balances remaining in my hands.

5. I take this opportunity of mentioning, that if the number of prisoners on my establishment was increased to one hundred, I believe that the saving mode would in a very short time amount to a considerable sum. I have never had more than sixty convicts regularly at work, and this number must be diminished as the periods of their imprisonment expire.

Copy of a Letter from the Chief Secretary to Government, dated 25th October 1816, to the Joint Magistrate at Allahabad.

I am directed by the Right Honorable the Governor General in Council, to acknowledge the receipt of a letter from you, dated the 11th ultimo, furnishing the information required by the 6th and 7th paragraphs of my letter of the 24th May last, from which it appears, that the sale of the articles manufactured by the prisoners under your superintendence, has produced a net surplus balance in favour Government of 820 rupees, 8 annas, 10 pie, after deducting the expense incurred on account of buildings, of purchasing raw materials, and the necessary implements, including the amount of other incidental charges.

2. To that sum may be added 150 rupees, being the estimated value of 90 pieces of cloth, delivered free of expense to the magis-

trate of Allahabad, for the use of the convicts in his jail, making a total surplus of 970 rupees, 8 annas, 10 pies.

3. Government, however, has not the means of judging how far that sum is calculated to defray the expense incurred, in maintaining the convicts during the time in which they have been employed in the manufacture of cloths under your superintendence which formed one of the objects contemplated by Government in sanctioning the experimental measure under consideration; and you are accordingly desired to supply the necessary information on that point, in the future half-yearly reports which you propose to submit to Government.

4. You are authorized to retain the balance of rupees 820. 8. 10, now in your hands, as a fund for continuing and improving the establishment.

5. A copy of your letter will be forwarded to the Nizamut Adawlut, in order that the Court may (if it appear practicable and expedient) authorize an additional number of convicts to be employed under your superintendence, in extending the arrangements described in your letter.

6. The success which has already attended your zealous exertions, in the superintendence of this experiment, justifies the expectation, that it will tend to improve the future habits of the individuals who are instructed in the means of obtaining an honest livelihood; and will lead to a material diminution of the expense to which Government is exposed in maintaining the convicts.

No. 241.

To the Provincial Courts of Appeal and Circuit in the Western and Lower Provinces.

November 10, 1820.

I AM directed by the Nizamut Adawlut to transmit to you, with a view to its being communicated to the several magistrates and joint magistrates in your divison, for their information and guidance, the enclosed extract of a letter (paragraphs 4, 5, and 6) from the chief Secretary to Government, under date the 13th ultimo.

When you have made the required communication, you are requested to report the same to the Nizamut Adawlut.*

Extract of a Letter from the Chief Secretary to Government, to the Register of the Sudder Dewanny Adawlut, under date the 13*th October,* 1820.

PAR. 4. His Lordship in Council cannot but apprehend, that much of the reluctance felt by the proprietors and managers of

* See No. 287.

estates to give their ready and active assistance in matters of police, is not unfrequently to be ascribed to an injudicious and intemperate use of the authority vested in the magistrates to enforce certain police duties from the zemindars.

5. The discharge of those duties by the proprietors and managers of estates or their agents, is undoubtedly essential to an efficient police; but a harassing, vexatious, and indiscriminate interposition of the magistrate's authority, in cases of trifling importance, is not calculated to secure their useful co-operation. If the proprietors of estates are compelled to attend at the magistrate's cutcherry, to answer for every petty inattention or supposed irregularity in the discharge of the duties intrusted to them, they will naturally be led to avoid residing on their estates, and to thwart rather than to forward the views of the magistrates. The powers vested in the magistrates are abundantly sufficient to enable them to visit with severity any frequent disregard or violent breach of the police duties intrusted to zemindars; but their willing and cordial, and really useful aid, is to be obtained only by a temperate and conciliatory, though firm exercise of those powers; by a liberal consideration of trivial errors or defects; by an uniform acknowledgment of useful services, and by the willing distribution of praise and reward when merited.

6. Under this impression, His Lordship in Council is of opinion, that the Court of Sudder Dewanny Adawlut and Nizamut Adawlut might conveniently take the present opportunity to circulate to the magistrates and joint magistrates generally, such observations as might appear calculated effectually to discourage a harsh and intemperate exercise of the authority vested in the magistrates, for securing the performance of the police duties imposed upon the proprietors and local managers or agents of estates, and might lead to the general observance of a cautious, discreet, and conciliatory line of conduct, in securing the invaluable aid and influence of the persons above alluded to in matters of police, which can never be obtained by unnecessary harshness and indiscriminate severity.

No. 242.

To the Several Magistrates and Joint Magistrates in the Western Provinces.

January 26, 1821.

The superintendent of police for the Western Provinces having brought to the notice of Government, and Government to the notice of the Court, a practice stated to prevail amongst many of the police darogahs in different districts of the divisions of Bareilly and Benares, namely, of their taking the confessions of prisoners in the

Persian language; I am directed by the Nizamut Adawlut to desire, that you will enjoin implicit obedience on the part of the police *darogahs in your district, to the rule contained in* Clause I, Section 19. of Regulation XX. 1817, namely, that in the event of a "prisoner making a free and voluntary confession, it shall be immediately written down, if practicable, in the language *best understood by the person confessing.*"

No. 245.

To the Benares Court of Circuit; and to the Courts of Circuit in the Lower Provinces *

June 8, 1821,

THE attention of Government having been recently attracted to an abstract statement of prisoners, detained under requisition of security by a magistrate of a zillah in the Western Provinces, revised and submitted by a judge on circuit, through this Court, to Government, wherein it appeared, that 54 individuals had been detained, in some of the cases, merely on suspicion of their being bad characters, without any direct evidence to the fact, and in others, merely because they had been before apprehended, or convicted of specific offences; and His Excellency the Most Noble the Governor General in Council apprehending, that a greater laxity may prevail, in requiring security from individuals, on the ground of bad character, than is consistent with the spirit and intention of the provisions contained in Regulation VIII. 1818; I am directed by the Court of Nizamut Adawlut to request, that you will call the attention of the magistrates and joint magistrates of the districts in your division, to the necessity of their exercising the powers they still possess, under Regulation VIII. 1818, with due caution and discretion.

No 247.

To the Several Courts of Circuit.

November 24. 1821.

THE Court having lately had occasion to observe, that many irregularities are committed by the police officers, in conducting the search for stolen or plundered property, which they are authorized to make, under the rules contained in Section 16, Regulation XX. 1817; I am directed to desire, that you will instruct the magistrates and joint magistrates in your division, to conform strictly to the rules prescribed for the purpose, in the Section above quoted, and to be particular in the transmission of the chulaun, or

* The Bareilly Court of Circuit was written to separately on the same date.

despatch, of stolen or suspected property, obtained during a search in the form No. 3, prescribed by that regulation.

2. I am also directed to desire, that the judges of circuit, presiding at any trial at all depending on the question of the discovery of any stolen property, obtained on a search made by the police officers, enter upon the record of the trial the original *chulaun*, with a translation of it in Persian, when the original may be in any other language.

No. 250.

To the Several Courts of Circuit.

March 29, 1822.

The Court of Nizamut Adawlut, having reason to apprehend, that the circular order of this Court, bearing date the 20th of April 1818,* by which magistrates were in certain cases authorized to provide for the detention of a prisoner in failing to find sureties for his good behaviour, in addition to a specific sentence, is considered to be still in full force, notwithstanding the enactment of Regulation VIII. of 1818, promulgated on the 28th of August 1818, direct me to acquaint you, that the court are of opinion, that from and after the date of the latter regulation, which modified the existing rules relative to the requisition of security, the magistrates ceased to possess authority for passing such an order as that specified in the circular letter under date April 20, 1818.

2. You will accordingly be pleased to instruct the several magistrates within your division, to consider the circular order above specified to have been rescinded by the provisions of the subsequent enactment of Regulation VIII. of 1818.

No. 252.

To the several Courts of Circuit.

April 27, 1822.

In modification of the orders issued on the 18th of August 1820, on the subject of allowing a portion of their earnings to prisoners employed in the jails on private labour, I am desired to communicate to you, that with the view of encouraging industry, and promoting the important objects contemplated in the enactment of those rules, the Court have resolved that instead of one-fourth, at present allowed, such prisoners shall in future, be allowed one-half of the produce of their labour.

* Two Circulars Nos. 201 and 202, were issued on this date, and the latter as the one rescinded, has been omitted.

You will accordingly be pleased to communicate a copy of this letter to the several magistrates within your division for their information and guidance.

No. 253.

To the Courts of Circuit in the Lower Provinces.

May 3, 1822.

THE Court of Nizamut Adawlut direct me to forward to you, for your information and guidance, the subjoined extract (paragraph 6) from the resolutions of Government in the Judicial department, received with Mr. Secretary Prinsep's letter to my address of the 15th ultimo.

2. You are requested to make the necessary communication to the several magistrates subject to your authority.

Extract from the Resolutions of Government in the Judicial Department, dated the 15th April, 1822.

PAR. 6. His Lordship in Council has, on more than one occasion, had to remark upon the delays, which for one cause or another have retarded the execution of repairs and alterations of public buildings in the Dacca division, after they have been sanctioned by Government, and ordered to be effected through the superintendent of civil buildings, and, in the Lower Provinces, his subordinate officers. The great extent of country allotted to each of these officers, and the variety of works in hand, together with their distance from each other, are doubtless some of the principal causes of these delays. His Lordship in Council, however, in order to obviate as much as possible the serious inconveniences resulting therefrom, resolves, that henceforward the superintendent of civil buildings be on every occasion desired to state the particular arrangement made to put the work in train of execution, and the date on which it will be commenced and finished. In case the assistants in that department should be otherwise employed, so as to render it impossible for them to commence the work at the time; or if, for any other reason, no progress shall have been made on the date indicated to Government, it will be the duty of the magistrate, or other public officers, to whose department the work may belong, to report the circumstances to Government, in order that measures suitable to the exigency of the case may be taken.

No. 254.

To the Several Courts of Circuit.

May 10, 1822.

I AM desired by the Court of Nizamut Adawlut to acquaint you, that an instance has lately been brought to the notice of Government, in which a magistrate omitted to restore a native officer to office, whose restoration was directed by the Nizamut Adawlut, under Clause seventh, Section 7, Regulation XVII. 1816, and large arrears of salary having become due to such officer, the question arose from what funds the arrears were to be discharged, his salary pending his exclusion from office having been paid to his substitute. In the particular instance alluded to, the amount was defrayed by Government; but his Lordship in Council has at the same time recorded a resolution, that as Government ought not to be responsible for any expenses occasioned by such inattention, he will be prepared, on the recurrence of any similar instance, to direct such part of the extra charge as may have arisen from non-compliance with orders, to be retrenched from the allowances of the person by whose fault the restoration to office may have been delayed, after receipt of orders to that effect from a superior Court.

2. The Court of Nizamut Adawlut deeming it expedient that this resolution should be generally promulgated, you are requested to furnish the several magistrates within your division with a copy of this letter, for their information and guidance.

No. 255.

To the Several Courts of Circuit.

May 17, 1822.

THE Court of Nizamut Adawlut being of opinion, that there may be districts in which a strict adherence to the suggestions contained in the Court's circular letter, dated the 28th of August 1820,* may not be advisable: and deeming it expedient, that the several magistrates should exercise a sound discretion in awarding either description of labour, public or private, to the prisoners under their charge; direct me to acquaint you, for the information and guidance of the several magistrates, that they are not to consider themselves implicitly bound to adopt the principle contained in the above letter; but that they may employ their prisoners in manufactures, or on the roads, as may seem most applicable to the case of each individual, without reference to the nature of the offence of

* See No. 25[illegible]

which they may have been convicted, provided their sentences may not have specified any particular species of labour.

2. In communicating a copy of this letter to the several magistrates within your division, the Court request, that you will at the same time signify to them the confident expectation of the Court, that in exercising this discretion they will not lose sight of the chief object contemplated by the promulgation of the former rules, namely, the reformation of the offender.

No. 258.

To the Several Courts of Circuit.

June 28, 1822.

THE attention of the Court of Nizamut Adawlut having been attracted to the circumstances of a fire, which lately broke out in the jail at Dinagepore, and which, there is every reason to apprehend, was occasioned by the indulgence of allowing the prisoners the use of hookahs, after they were shut up at night; they desire me to forward to you the accompanying extract (paragraph 6) of a letter from the superintendent of police in the Lower Provinces, containing the result of his inquiries into the cause of the fire above alluded to.

2. I am desired to add, that the Court highly approve of the observations made by Mr. Shakespear; and that they trust the several magistrates will use all practicable precautions, consistent with the health and reasonable comforts of the prisoners under their charge, to prevent the occurrence of similar accidents.

3. You are requested to circulate a copy of this letter, and of the extract which accompanies it, to the several magistrates within your division, for their information and guidance.

Extract of a letter from the Superintendent of Police in the Lower Provinces to the Acting Secretary to Government in the Judicial Department, under date the 8*th May*, 1822.

PAR. 6. I understand from Mr. Maxwell, who is now in Calcutta, that the privy is under the same chupper, and one corner of the ward was destroyed. The ward is a long building, constructed of mud walls, with a chuppered roof, so that the injury done by the fire cannot have been very considerable. The consequences, however, might have been fatal to the lives of the prisoners; and in jails of the description of that at Dinagepore, it seems objectionable, that the prisoners should be allowed to have their hookahs in the jail, (as was the case on this occasion,) after they are shut up for the night. If a light is necessary, it should be placed under the immediate inspection of the sentry.

No. 260.

To the Several Courts of Circuit.

August 9, 1822.

The Court of Nizamut Adawlut having observed that a great want of uniformity prevails in the mode of endorsing warrants, direct me to transmit to you, for the purpose of being communicated to the several magistrates, the accompanying copy of an endorsement received from the zillah of Sylhet; and you will be pleased to desire the magistrates within your division to make their endorsements correspond in future with this form.*

Foujdaree Adawlut, Zillah Sylhet.

I hereby certify, that the sentence of death passed on Lurrye Chung, son of Runghye Chung, by the Nizamut Adawlut, has been duly executed; and that the said Lurrye Chung, son of Runghye Chung, was accordingly hung by the neck till he was dead, at the town of Sylhet, on Saturday the 23d day of March 1822.

I further certify, that the body of the said Lurrye Chung, son of Runghye Chung, was afterwards conveyed to the place where the crime, of which he was convicted, was committed, and there suspended on a gibbet †

Given under my hand and the official seal of this Court, this 28th day of March 1822.

(Signed,) J. Staniforth, *Acting Magistrate.*

No. 264.

To the Several Courts of Circuit.

August 16, 1822.

I am desired to forward to you the accompanying extracts (paragraphs 275 to 280) from the report of the superintendent of police in the Western Provinces, for the year 1820, and an extract (paragraph 4) from a letter this day written to the officiating Secretary to Government, in the Judicial department, by order of the Court.

2. You are requested to furnish the several magistrates within

* See No. 266 and 305.

† As Gibbetting bodies has been interdicted (See No. 140, Part II.) the body would have to be burnt, if that of a Hindoo, or buried, if a Mussulmans, and the certification would be—" was afterwards burnt," or " buried," as the case may be.

your division, with a copy of these extracts, for their information and guidance.

Extract from the Report of the Superintendent of Police in the Western Provinces, for the year 1820.

PAR. 275. I shall now beg the attention of His Lordship in Council to a practice, which I have reason to think prevails throughout the country. I allude to the issue of circular orders by the magistrates, for the guidance of the police officers and zemindars.

276. Although Regulation XX. 1817, apparently defines very particularly all the duties to be performed by the police officers, there will always be some minute forms of proceeding, in which the magistrates are fully justified in issuing instructions, although not actually enjoined by the above quoted or any other regulation; but as these circular orders are intended to have, and ought to have, all the effect of laws, it appears to me absolutely necessary, that the magistrates should not be allowed to issue them without the previous sanction of the Government, unless they should be for the purpose of publishing a regulation or rule of a superior Court

277. A circular order of the Nizamut Adawlut, dated May 7th, 1812,* communicated to the magistrates the desire of Government, that they should refrain from issuing publications of a general nature to the inhabitants of the provinces; but I do not think that these orders have been much attended to, for very numerous circular orders have been issued by the magistrates in these provinces since that date, without any previous reference, and many of them are addressed to the inhabitants generally, as well as to the police officers.

278. There is a rule which I think every magistrate ought to impose upon himself, that of never issuing an order which he cannot enforce, or of threatening what he has not power to execute. A strict observance of this law will teach the magistrate to weigh carefully every order he gives, and prove to the inhabitants of his jurisdiction that his word is always law, and that implicit obedience is the best policy. It will be at once seen how dangerous this uncontrolled license to legislate must frequently prove, when not checked by sound judgment and discretion. The magistrate perceives what he conceives to be wrong, and a great inconvenience to the people themselves; he immediately reforms it by a circular order, to which he cannot enforce obedience, even if he can ascertain that it is disregarded, which he frequently cannot. Such an order is one to the following effect, issued by a magistrate in the Upper Provinces in March 1820. "It appearing, that various descriptions of weights and measures are used in the district, and it being proper, that they should be reduced to one standard, it is ordered, that the seer shall consist of 96 sicca weight, and the yard (guz) of two

* See No. 112.

hauths, and that these weights and measures be sealed with the seal of the Court, and that any one using others shall be punished." This order is calculated to have no other effect than that of lowering the magistrate in the opinion of the people, for they will not obey it, and he cannot enforce it. The following is a greater stretch of power, and in my opinion not only altogether illegal, but in many parts highly objectionable. "The putwarees are directed to keep a descriptive list of the cattle in their respective villages; no sale of cattle to take place on a road or plain; cow-keepers to inform when stray cattle come among their flocks: when a sale of cattle takes place, the putwaree shall grant to the purchaser a certificate descriptive of the cattle, and containing the name of the seller: he shall also enter all this in a book, kept for the purpose, and receive a fee of two pice on every sale. When newly purchased cattle shall be brought to his village, the putwaree shall enter their description in his book, and receive one pie. If any person brings an ox or cow to the village, without a certificate, the putwaree shall inform the darogah. The putwaree shall also make a list of the people residing in his village, men, women, and children, and of their cattle."

279. Now the magistrate has certainly no authority, which allows him to invest the putwarees with police powers, and to demand fees; nor could he punish any one for disobeying his order, which seems to me calculated to harass and annoy the people much more, than the offence which it was intended to prevent. Another magistrate, not satisfied with directing the general appointment of village chokeedars, issued an order, that they should be dressed in a particular uniform, to distinguish them from the other inhabitants.

280. I submit the above as specimens of circular orders, and if they are not sufficiently demonstrative of the expediency of checking the practice of issuing them, I could produce many more equally objectionable. But on general grounds, that the magistrates should not impose laws, without the sanction of the Government, I beg leave to recommend that it be ordered, that every circular order, which the magistrates may think it necessary to issue, shall be submitted through this office, for the approval either of the Governor General in Council, or of the Nizamut Adawlut: and that the order be not published untill sanctioned by one of those authorities.

Extract of a letter from the Acting Register of the Nizamut Adawlut, to the Acting Secretary to Government in the Judicial Department, dated 16th August 1822.

Par. 4. The Court beg leave to express their concurrence generally in the opinion entertained by Mr. Ewer, as to the impropriety of circular instructions being issued by the magistrates;

and, with the view of checking the prevalence of so objectionable a practice, the Court have resolved to circulate to the several magistrates, through the Courts of Circuit, those paragraphs of Mr. Ewer's letter, which have relation to the subject; to enjoin them, at the same time, to be particularly cautious in the promulgation of general or circular orders, and to furnish the superintendents of police, immediately on their promulgation, with a copy of all orders of the description, which they may deem it necessary to issue. The superintendents of police will also be requested to communicate to the provincial Courts of the several divisions, with a view to their reversal, any orders of a general or circular nature, issued by the magistrates, which they may consider objectionable; and in the event of any difference of opinion between those authorities, as to the tendency of such orders, to refer the point to this Court for final adjustment.*

No. 266.

To the Several Courts of Circuit—(Calcutta excepted.†)

August 24, 1822.

An error having been discovered in one of the letters (circular), under date the 9th instant,‡ and it being apprehended, that the same may have run through the other copies; I am desired by the Court of Nizamut Adawlut to request, that you will rectify it in the copy in your office, should it have actually occurred.

2. The mistake alluded to, is, the omission of the word "seal," in the concluding paragraph of the endorsement of the warrant, which accompanied my letter above mentioned.

No. 272.

To the Courts of Circuit,

January 10, 1823.

It has occurred to the Nizamut Adawlut, as being probable, that many individuals, apprehended on bailable charges, may have been exposed to unnecessary hardship, by the omission, on the part of the magistrates, to record a specific order in their proceedings, declaring that security will be received, and specifying its amount. I am desired to request, that you will instruct the several

* The Superintendent of Police has exclusive authority to rescind, modify, or alter any Circular order issued by a Magistrate—See No. 7, Part III.

† The error was brought to notice by the Calcutta Court of Circuit, and rectified in the reply to their letter.

‡ See No. 260.

magistrates and joint magistrates, subject to your jurisdiction, that in all complaints preferred to them for offences which are clearly bailable, and in which there can be no ground for refusing bail, if offered, they lose no time in apprizing the party complained against, that security will be received for his appearance, at the same time stating the amount in which it may be required. The magistrates should further certify on the record, the offer (and the terms of it) of the liberation on bail, taking particular care, at the same time, that the amount demanded be not excessive, or in any way disproportionate to the nature of the offence, or the circumstances in life of the accused party.

No. 273.

To the Several Courts of Circuit.

February 21, 1823.

The Court of Nizamut Adawlut, deeming it desirable that, in cases referred to this Court from the Courts of Circuit, they should have an opportunity of inspecting the magistrate's calendar of commitment, desire me to request you will, on all future occasions, annex to the record of the trial, in each referred case, an exact copy of the Persian calendar, as submitted by the magistrate to your Court.*

No. 275.

To the Several Courts of Circuit.

May 2, 1823.

The attention of the Court of Nizamut Adawlut, having lately been attracted to the effect of their circular order, bearing date the 26th of April 1819,† and having reason to believe, that the concluding part of it, (which directs the judges of circuit, in cases of burglary, &c. whenever, by reason of circumstances of aggravation, a sentence of severity, say exceeding four years' imprisonment with stripes, has been passed, to insert a brief explanation under the column of remarks, showing what those circumstances of aggravation are,) has been construed to intend to fix a maximum of punishment, in cases of burglary unattended with aggravating circumstances, which the Court consider objectionable, desire me to direct, that you are not to consider such as having been the

* Also a Copy of the English Calendar See No. 188. Part III.
† This referred to No. 216, which has been omitted as except what has been quoted in this Circular, the remainder related to periodical statements.

meaning and intent of the order in question; but that you are at liberty to award any measure of punishment, authorized by the regulations, in all cases of burglary, subject of course to the revision of this Court.

2. I am, at the same time, directed to observe, that these instructions are not intended to supersede the necessity of your furnishing, as heretofore, brief explanations, showing the nature of each case, in the column appropriated for that purpose, in the statement of prisoners punished without reference by your Court.

No. 276.

To the Several Courts of Circuit.

May 16, 1823.

The Court of Nizamut Adawlut having experienced much inconvenience, in the consideration of evidence, in trials, wherein articles of stolen or plundered property have been produced, without due precaution having been taken, before the Court of Circuit, in numbering and describing each article separately; I am instructed to communicate the following orders, for the future guidance of your Court, and of the magistrates subject to your authority.

2. In all trials, wherein property may be produced in Court, as evidence against persons accused, the judge of circuit, presiding at the trial, will be careful to describe in his proceedings, and to quote the number of each article of property produced before the Court of Circuit, and adverted to in the examinations of parties and witnesses on the trial, according to the description and number affixed to such article in the chellaun or despatch, which the police darogah is required to transmit to the magistrate, by Clause second, Section 16, Regulation XX. 1817.*

3. The magistrates will require their police darogahs to pay strict attention to the rule above quoted, and, in their proceedings on the commitment, in cases of the description referred to, will invariably number and describe the property, according to the number and description used in the despatch of the police darogah.

* Query—Clause tenth.

No. 279.

To the Several Courts of Circuit.

November 21, 1823.

4. I AM further desired to forward to you, copies of paragraph 35. of the first* and of paragraphs 25 of the second † document above mentioned; and to request, that the judges of your Court will, in future, visit, and, when requisite, furnish a report on the state of the insane hospital ‡.

Extract of a Letter from Mr. J. B. Elliott, Fourth Judge of the Patna Court of Circuit to the Register of the Nizamut Adawlut, under date the 15th August, 1823.

PAR. 35. I believe the judges of circuit are prohibited from visiting the insane hospitals, at least I recollect, that the magistrate of Benares produced an order to that effect on my offering some suggestion, respecting the hospital at that station. I beg to recommend that the judge of circuit, to whose turn it may fall to prepare the half-yearly report of the police of the city——— —, be required also to visit the insane hospital, and submit a report of the number and treatment of the patients, the state of the buildings, and other points, which may appear proper to be brought to the notice of the superior authorities.

Extract of a Letter from the Register of the Nizamut Adawlut to the Chief Secretary to Government, under date the 21st November 1823.

PAR. 25. The Court are not aware, that the judges of the Court of Circuit are prohibited from visiting the insane hospitals. They see no objection to directing the judge, to whose turn it may fall to prepare the half yearly report of the police of the city, to visit and report on the state of the insane hospital, as proposed by Mr. Elliott; and the necessary instructions will be issued accordingly.

* Letter from Mr. J. B. Elliott, fourth judge of the Patna Court of Circuit, under date the 15th August 1823.

† Ditto from the Nizamut Adawlut to the chief Secretary to Government, dated the 21st November 1823.

‡ The first part of the circular has been omitted, because it merely called for information from the Courts of Circuit and magistrates, as to whether or not abuses have been practised from cases of abortion being considered cognizable by the police officers and zemindaree omlah, and does not therefore contain any standing rule.

No. 281.

To the Several Courts of Circuit.

November 26, 1823.

The Court of Nizamut Adawlut having been exposed to considerable inconvenience, by the circumstance of the confessions of prisoners, taken down in their peculiar dialects, being submitted with the trials, unaccompanied by a translation thereof, in a language generally known; I am desired to request, that, on all future occasions of reference to this Court you will cause the original confessions to be accompanied by accurate translations in the Persian language.

No. 285.

To the Several Magistrates and Joint Magistrates, including Cuttack.

March 19, 1824.

I am desired by the Court of Nizamut Adawlut to transmit to you the accompanying extract (paragraphs 3 and 4) of a letter from the chief Secretary to Government, under date the 4th instant; and to require that you will, in future, adopt the mode of proceeding therein pointed out, on any occasion of the number of prisoners being greater than can be conveniently accommodated in the proper jail.

Extract of a letter from the Chief Secretary to Government, to the Register of the Nizamut Adawlut, under date the 4th March, 1824.

Par. 3. The circumstances stated in the correspondence which accompanied your letter, as well as on former occasions of a similar nature, render it expedient, in the judgment of Government, that a circular order should be issued by the Court of Nizamut Adawlut, to all the magistrates and joint magistrates, authorizing and enjoining them, whenever the number of prisoners may be greater than can be conveniently accommodated in the proper jail, to hire, without previous application to Government, any suitable buildings which may be procurable, or to accommodate a portion of the prisoners in tents or boats, or to incur such expense as may be necessary to provide, in any other manner, for the temporary shelter and safe custody of the prisoners.

4. On such occasions the magistrates should forthwith report the arrangements they may adopt for the information of the Nizamut Adawlut and of Government, explaining, at the same time,

the cause of any sudden augmentation in the number of prisoners, which may have rendered such temporary arrangements necessary.

No. 286.

To the Several Courts of Circuit.

April 2, 1824.

A CASE having come to the notice of the Nizamut Adawlut, wherein a sentence of death, passed on a female prisoner, (who was respited for a time, on account of alleged pregnancy,) nearly six years ago, has not (through an oversight) been carried into execution; I am directed by the Court to desire that you will make particular inquiries from the magistrates in your division, with a view to ascertain, whether there are any other individuals, in a similar predicament, confined in their jails.

2. I am further desired to request, that you will direct your attention to this subject, in future, at the several stations which you may visit in the course of the periodical circuits; and that you will invariably report for the orders of the Court, any extraordinary delay that may have occured, in carrying into execution a sentence of capital punishment.*

No. 287.

To the Several Courts of Circuit.

April 2, 1824.

THE Court of Nizamut Adawlut having been informed, that a practice prevails in some districts of requiring respectable persons, who are held to bail on charges of a trivial nature, to remain for a length of time, in constant attendance at the sudder station of the district, to their great annoyance, and to the detriment of their private concerns; I am directed by the Court to desire, that you will call the particular attention of the magistrates and joint magistrates in your division to the extract from the letter of the chief Secretary to Government, under date the 13th October 1820, circulated on the 10th November of the same year,† and that you will desire them to appoint a particular day for the attendance in Court of persons on bail, whenever a longer period than one week may be likely to elapse between the proceedings.

2. You will also be pleased to direct the magistrates and joint magistrates to lay before the judge of circuit, at each sessions a statement exhibiting the names of all persons at large on bail; the offences with which they are charged the period during which the

* See No. 305.

† See No. 241

cases have been pending; and the reasons why they have not *been disposed of.*

No. 288.

To the Several Courts of Circuit.

April 17, 1824.

I am desired by the Court of Nizamut Adawlut to forward to you the accompanying copy of a letter, from the superintendent of police in the Lower Provinces, dated the 3rd instant, and of a letter which accompanied it, from the joint magistrate at Monghyr, to the address of that officer, under date the 22d ultimo.

2. On consideration of the circumstances set forth in those documents, the Court desire me to communicate to you the following instructions, for your guidance and that of the several magistrates subject to your jurisdiction.

First. All prisoners committed by a joint magistrate to take their trial before a Court of Circuit, wherever they may be tried, shall, if sentenced to a period short of perpetual imprisonment, and if banishment form no part of their sentence, be sent to be imprisoned, till the expiration of their term, at the station of the joint magistrate, by whom they were committed; provided the jail at the joint magistrate's station have room and accommodation for the prisoners, without danger to their safe custody or health. Where this may not be the case, the prisoners must either all, or parts of them, according to the necessity of the case, be confined in the jail of the magistrate's station.

Secondly. Copies or abstracts of the sentences of all prisoners, whether convicted and sentenced to punishment, or acquitted and discharged, shall be sent to the joint magistrate, by whom they were commited.

Thirdly. After the completion of the trials, the proceedings on the commitments shall be returned to the office of the joint magistrate, by whom they were committed.

2. You will be pleased to furnish the several magistrates and joint magistrates within your division with a copy of this letter, for their information and future guidance.

Copy of a letter from the Superintendent of Police in the Lower Provinces to the Register of the Nizamut Adawlut, under date the 3d April, 1824.

I request the favour of your submitting the accompanying copy of a letter from the joint magistrate stationed at Monghyr, for the orders of the Nizamut Adawlut.

2. It has originated in my requiring the joint magistrate to report the result of commitments made by him of persons to be

tried by the Court of Circuit. It appears, however, from the joint *magistrate's letter, that after prisoners are sent to the magistrate's jail to be brought* before the judge of circuit for trial, no subsequent communication is made to the joint magistrate of the sentences passed upon them.

3. Mr. Templer first suggests, that copies of the warrants in cases of commitment made by him should be forwarded to his office; and further that all prisoners convicted under his commitments should be sent for confinement to the jail at Monghyr, which is spacious and capable of containing a large body of convicts.

4. Perhaps the superior Court may be disposed on this occasion to take into its consideration the expediency of all sentences (excepting acquittals and sentences to banishment or transportation) being carried into effect at the station of the joint magistrate, where the original commitment of a prisoner may have been made. In such cases, the joint magistrate's proceedings, and the warrant of the Court of Circuit or Nizamut Adawlut would accompany the prisoner; and in cases of acquittal, banishment, or transportation, there appears to me no reason why the joint magistrate's proceedings should not be returned to him. It may often be necessary to refer to them, and they are certainly more properly a record of the joint magistrate's office than of the magistrate's. So also in capital cases, the record might be kept in the office of the joint magistrate, in whose jurisdiction the crme may have been committed, with a copy of the warrant of execution, although the prisoners may be sentenced to be executed at the station of the magistrate.

Copy of a letter from the Joint Magistrate at Monghyr to the Superintendent of Police in the Lower Provinces, dated the 22nd March, 1824.

The accompanying urzee will point out the reason of my being unable to comply with the order expressed in your roobukaree of the 2d March, relative to the punishment of prisoners committed for trial before the Court of Circuit.

2. After a prisoner is moved from this jail to Bhagulpore, Tirhoot, and Behar, where the sessions are held, all knowledge of the result of the trial ceases. Hence the punishment inflicted cannot in any way operate as an example to the neighbourhood, where the crime was committed. The natives of the thannahs under my charge have seldom or ever occasion to visit the sudder station, appeals from me as joint magistrate resting with the Court of Circuit, and subsequently in many cases are totally ignorant of the punishment passed on offenders by the Court of Circuit. A case occurred a very short time since, which places this in a striking point of view. A murder was committed in the town of Monghyr,

upon the son of an out-pensioner, and the prisoner sent for trial to the judge of circuit holding the sessions at Bhagulpore, a distance of only 36 miles. Now although sentence has been passed by the Nizamut Adawlut, and the warrant forwarded to the magistrate, I was unable to ascertain after repeated inquiries what that sentence was. A private communication at last gave me the information I required; but I believe to this day the parties most interested save the defendant, are in utter ignorance of the result of the trial. I have taken the liberty of drawing your attention to this, as I conceive it might easily be obviated, by requiring the magistrates, on receipt of the warrant, to forward a copy to the joint magistrate.

3. I beg to submit, whether it might not be advantageous to direct, that all prisoners committed by the joint magistrate for trial before the court of circuit, at Behar, Tirhoot, and Bhagulpore, whose sentence did not exceed seven or even fourteen years, should be sent for confinement to the jail at Monghyr, instead of remaining at the sudder station. The number of prisoners here is small, from 220 to 250, those working on the roads averaging about 140. The roads around Monghyr are numerous, and the main road from Patna to Moorshedabad runs contiguous. Part of this, namely, from Soarujgura to Monghyr, is always out of repair, and scarcely passable, in consequence of the only villages on its border belonging to invalid sepoys. These men never assist in repairing it, and by the regulations of Government cannot be compelled to do so. If the number of working prisoners were increased, which by the method I propose could be done without inconvenience, as the jails of Behar, Tirhoot, and Bhagulpore are generally full, the high road for eight months in the year could be rendered passable, for any conveyance, and the passage of troops greatly facilitated.

4. The jail of Monghyr is spacious, airy, and strong, capable of containing eight hundred people; and were the windows of two of the lock-up wards, facing the river (now seldom used, the prisoners being so few,) secured with double, instead of single iron bars, it might bid defiance to all attempts at escape.

No. 289.

To the several Courts of Circuit.

April 30, 1824.

I AM directed by the Court of Nizamut Adawlut to transmit to you the accompanying copy of a letter from the chief secretary to Government, under date the 19th instant, communicating the sentiments and orders of Government, on the subject of complaints against British subjects, who are Indigo planters, and residing in the interior of the country.

2. The Court desire, that you will circulate copies of the chief Secretary's letter to the several magistrates and joint magistrates in your division, for their information and guidance, and that you will call their particular attention to the fifth paragraph thereof.

Copy of a Letter from the Chief Secretary to Government to the Register of the Nizamut Adawlut, under date the 19*th April* 1824.

I am directed by the Right Honorable the Governor General in Council to acknowledge the receipt of a letter from you, dated the 26th ultimo; reporting, in continuation of your former letter, of the 14th October last, the result of the proceedings instituted against Mr. Mackay, an Indigo planter in the district of Dacca Jelalpore.

2. It is satisfactory to Government to find, from these papers, that Mr. Mackay has been fully acquitted of all share and participation in the serious case of affray, noticed in the 22d paragraph of the report furnished to the Nizamut Adawlut, on the 7th August last, by the senior judge of the provincial Court for the division of Dacca.

3. His Lordship in Council directs me to take this opportunity of observing, that the anonymous petition, referred to in the 5th paragraph of the Court's letter of the 14th October last, appears to Government to contain a very exaggerated statement of the evils supposed to prevail, from the conduct of Indigo planters in the interior of the country. If it could be believed, that that statement exhibited a faithful picture of abuses actually prevailing, either the judges of circuit and the magistrates must have grievously failed in the discharge of their duties, or our system may justly be pronounced, in this respect at least, utterly inefficient in the means of affording protection to our subjects.

4. But although His Lordship in Council is satisfied, that the statement in question is grossly exaggerated, he is not ignorant that excesses are but too frequently committed by the class of persons alluded to; and he accordingly desires, that the Court of Nizamut Adawlut will bring under the special notice of Government every case in which, from the proceedings or information before them, they should be satisfied, that a British subject, residing in the interior of the country, has been guilty of any act of illegal violence, oppression, or injustice towards the natives, in the prosecution of Indigo or other commercial transactions.

5. It also seems to be very desirable, that the magistrates should be instructed, whenever a British subject may appear, on satisfactory evidence, to have been guilty of any illegal act of the above description, and the proceedings held in the case may not be referrible in regular course to the Nizamut Adawlut, to transmit a specific report of the facts of the case, with a copy of their proceedings, to that Court; who, if they consider the alleged act of illegal violence or oppression to be proved, and to be of a nature

demanding the notice of Government, will report their sentiments accordingly. It is the intention of Government to visit all such acts with its severest displeasure, and to recall, in every instance of a serious nature, the license under which the individual may be residing in the interior of the country.

6. His Lordship in Council is aware, that the course now prescribed will impose upon the Nizamut Adawlut a duty not hitherto regularly devolving upon them; but he is satisfied, that they will cordially render their assistance to the Government in the correction of abuses which, if they should prevail to any considerable extent, cannot fail to prove equally injurious to the character of Government, and to the happiness of its subjects.

No. 291.

To the Several Courts of Circuit.

May 7, 1824.

I AM directed by the Court of Nizamut Adawlut to transmit, for your information and future guidance, an extract (paragraph 6) from the resolutions of the Court of this date, relative to the crime of administering poisonous drugs to persons, with a view to robbing them when in a state of insensibility.

2. I am further directed by the Court to observe, that under their constructions of the fourth clause of Section 8, Regulation XVII. 1817, as applicable to such cases, it will be necessary to refer, for the final sentence of the Nizamut Adawlut, all trials in which the prisoner or prisoners may be convicted of the offence in question, whether death may ensue or otherwise.*

Extract from the Remarks and Orders of the Nizamut Adawlut, under date the 7th May 1824, *on the Chief Secretary's letter of the 6th November last, forwarding the Report of the Superintendent of Police in the Lower Provinces for the year* 1822, *and the Resolutions of Government thereon.*

PAR. 6. The Court regret to observe, that the crime of administering poisonous drugs to travellers and other persons with the view of robbing them when in a state of insensibility, appears to be increasing both in the lower and Western Provinces. They do not however consider, that any further enactment is necessary for the punishment of persons guilty of this atrocious crime; as, in the event of death ensuing, the offender would on conviction be liable to the punishment of wilful murder, and when death may not ensue, as life is endangered by administering poisonous drugs in order to cause insensibility, such cases appear to come within

* See Nos. 64 and 83, Part III.

the provisions of the fourth clause of Section 8, Regulation XVII. 1817, relative to cases of robbery and theft, or the attempt to commit such, when accompanied with an attempt to commit murder, or with corporal injury in such degree as to endanger life. In all such cases, the trial is referrible to the Nizamut Adawlut; and the offenders who may be convicted to the satisfaction of this Court are liable to a sentence of 39 lashes with a corah, and imprisonment and transportation for life.

No. 292.

To the Several Courts of Circuit, (Benares Excepted.)

May 14, 1824.

Instances having been brought to the notice of the Nizamut Adawlut, of prisoners who have been inadvertently detained in jail beyond the period of their sentences, the Court, with a view to prevent the recurrence of similar mistakes, have determined, that all prisoners sentenced by the Courts of Circuit, and also those sentenced by the Nizamut Adawlut, to imprisonment for a limited period, shall be furnished with a certificate, signed by the magistrate, and sealed with his official seal, showing the name of the prisoner; the crime of which he is convicted; the period of imprisonment to which he is sentenced; the date of the warrant; and the date on which the period of the sentence will expire.

2. Printed forms of the certificate, containing these particulars, will be transmitted, as soon as possible, to the several magistrates and joint magistrates.

3. In the mean time you will be pleased to issue the necessary instructions to the magistrates and joint magistrates in your division, requiring them, on receipt of the forms in question, to grant certificates to all prisoners of the above description, who may be now in confinement; and to grant them, in future, to all such prisoners, when their sentence is explained to them.*

No. 294.

To the Several Courts of Circuit, (excepting Benares.)

June 18, 1824.

In continuation of my letter of the 14th ultimo, on the subject of the certificates to be granted to prisoners sentenced by the Courts of Circuit and the Nizamut Adawlut, to limited periods of imprisonment, I am directed by the Court of Nizamut Adawlut

* See the two following circulars.

to desire, that you will instruct the magistrates in your division to insert in the certificate, in addition to the particulars before ordered, the age and personal description of the prisoner.

2. You will also be pleased to instruct the magistrates to cause the prisoners to deliver up, on their discharge, the certificates which may be granted to them at the time of their sentences, under the orders contained in the letter above mentioned; as well as to be careful, that such certificates are taken back, and destroyed, in cases of death before the expiration of the sentence.

No. 295.

To the Several Courts of Circuit, and Commissioners of Cuttack and Rungpore.

June 18, 1824.

The Court of Nizamut Adawlut desire me to forward herewith printed forms of the certificates alluded to in my letter of the 14th ultimo, for the use of the magistrates and joint magistrates subject to your authority.

(FORM.)

Certificate, showing when the sentence of the undermentioned prisoner will expire.

1	2	3	4	5
Name of prisoner.	Crime of which he has been convicted.	Period of imprisonment to which he is sentenced.	Date of the warrant.	Date on which the period of his sentence will expire.

No. 297.

To the Several Courts of Circuit, and Acting Commissioner of Cuttack.

June 25, 1824.

The Court of Nizamut Adawlut having observed, that the profession of prisoners in the statements furnished by the magistrates of prisoners punished by them under Regulation XII. of 1818, is frequently mentioned to be that of Gorayt, Dhanuk, or other denomination of village watchmen, without its being noticed, whether the prisoner so denominated was employed as a watchman at the time of his committing the offence of which he is

convicted; I am directed by the Court to desire, that you will instruct the magistrates and joint magistrates in your division, to state distinctly, in the column of remarks, whether a prisoner whose profession may be that of Gorayt, Dhanuk, or any other description of watchman, was, at the time of committing the offence of which he may be convicted, actually employed in the capacity of guard or watchman, as described in Section 4, Regulation III. 1805, or otherwise.

2. I am directed by the Court to add, that where the prisoner was not a watchman at the time of committing the offence, the circumstance of his having been one formerly, or his being so denominated, is not to be regarded as a circumstance of aggravation under Regulation XII. of 1818.*

No. 302.

To the Several Courts of Circuit in the Western and Lower Provinces, the Acting Commissioner of Cuttack, and Commissioner of Rungpore.

December 17, 1824.

I AM desired by the Court of Nizamut Adawlut to transmit, for your information and guidance, the accompanying extract from the report of the fourth judge of the Calcutta Court of Circuit, on the conclusion of the first sessions of the present year in that division; and from the remarks and resolutions of the Nizamut Adawlut thereon, bearing this date.

2. You will accordingly consider yourselves competent to adopt the course of proceeding alluded to, under the circumstances therein specified.

Extract of a Report from Mr. R. Walpole, fourth Judge of the Calcutta Court of Circuit, on the conclusion of the first sessions of 1824, *of the division, under date the* 18*th October* 1824.

PAR. 67. It sometimes happens, that trials, in which more than one prisoner are arraigned, cannot be concluded during the sessions at which they are commenced, from the absence of witnesses summoned on the part of a few of the prisoners, after the case for the prosecution, the defence of the accused, and all the evidence indicated by the majority of them, have been gone through; and the customary practice on such occasions appears to be to postpone the conclusion of the trial *in toto,* without making any distinction between the prisoners whose cases may have been

* The Statement alluded to in the first paragraph is no longer furnished by Magistrates, but the circular has been retained for the construction in the 2d paragraph.

brought to a close, and those on whose part further evidence may be required.

68. This mode of proceeding appears to me objectionable, inasmuch as in some instances it is attended with hardship and injustice to those prisoners, whose innocence may have been established, or against whom there may not be satisfactory presumption of guilt. The power vested in a judge holding the sessions, of admitting prisoners to bail, is not, in my opinion, sufficient to meet the evil. Bail is not easily obtainable by many persons in such situations.

69. In cases, such as above described, I think a judge on circuit should be declared competent to exercise his discretion in concluding the trial of prisoners, whose cases may be completed, by calling for a futwa, and passing sentence on them; postponing a final decision on that part of the trial only, which affects the prisoners for whom further evidence may be required.

Extract from the Proceedings of the Court of Nizamut Adawlut, under date the 17th December 1824, on the subject of the Report of the fourth Judge of the Calcutta Court of Circuit, on the conclusion of the first half-yearly sessions for 1824, dated 18th October 1824.

PAR. 20. The Court are not aware of any objection to the adoption of the measure suggested by the judge of circuit, in cases where there may be several prisoners, and the evidence respecting part of them may be completed; but it may be necessary to postpone the trial to a future sessions for further evidence respecting some of the prisoners; viz. that in such cases "the judge of circuit should be declared competent to exercise his discretion, in concluding the trial of the prisoner whose cases may be completed, and passing sentence on them; postponing a final decision on that part of the trial only, which affects the prisoners for whom further evidence may be required."

No. 303.

To the Several Magistrates and joint Magistrates of the Western and Lower Provinces.

December 31, 1824.

I AM directed by the Court of Nizamut Adawlut to forward to you for your information, and for the future guidance of your police officers, the accompanying copy of the answer that was given by the Nizamut Adawlut, on the 10th December 1819, to a letter from the acting magistrate of Cuttack, soliciting their instructions whether the darogahs of police and other police officers shall or shall not be allowed to investigate charges of forgery, and of abortion, or of causing the commission of these crimes.

Copy of a Letter to the Acting Magistrate of Zillah Cuttack, addressed by the Acting Register of the Nizamut Adawlut, under date the 10th December 1819.

I am directed by the Court of Nizamut Adawlut to acknowledge the receipt of a letter from you, dated the 9th ultimo, soliciting the instructions of the Court, whether darogahs of police and other police officers shall or shall not be allowed to investigate charges of forgery, and of abortion, or of causing the commission of these crimes.

2. With respect to forgery or procuring the commission of it, the Court are of opinion, that as these offences come clearly within the general description of heinous offences, not excepted by Clause first, Section 13, Regulation XX. 1817, from the cognizance of the police darogahs on charges or information on oath to that effect before a police darogah, (or other officer of police authorized by the above mentioned regulation to exercise in his absence the powers vested in him,) he is bound to proceed to the investigation of such charge in conformity with the general rules prescribed for his guidance.

3. In regard to abortion or procuring it, the Court do not consider these offences to be of a heinous description, unless death ensue; and where this is not the case, they are of opinion, that such charges partake of the nature of those specified in Clause first, Section 12, Regulation XX. 1817, and should not therefore be investigated by the darogahs of police or other police officers without the special orders of the magistrate.

4. The Court consider, that to allow the darogahs of police indiscriminately to take cognizance of charges of this description, would be liable to much abuse, and they are further of opinion, that in general the investigation of them should be conducted by the magistrate, rather than by the officers of police.

No. 304.

To the Several Courts of Circuit, and Commissioners of Cuttack and Rungpore.

January 7, 1825.

Instances having been brought to the notice of the Court of Nizamut Adawlut, of persons wholly unacquainted with the facts of the case having been summoned to attend the Court of Circuit as witnesses for the prosecution; I am directed by the Court to desire, that you will issue instructions to the magistrates and joint magistrates in your division, to be careful in taking recognizances from witnesses required to give evidence for the prosecution, in cases committed for trial before the Court of Circuit; that such

recognizance be not taken from persons who appear to have no knowledge of the case, and whose evidence therefore cannot be requisite on the trial before the Court of Circuit.

No. 305.

To the Several Courts of Circuit, and Commissioners of Cuttack and Rungpore.

January 14, 1825.

An instance having been brought to the knowledge of the Nizamut Adawlut of a female prisoner, sentenced to capital punishment, who was respited on the plea of alleged pregnancy, till it could be ascertained whether such plea had any foundation or otherwise, having been ultimately executed by the magistrate at a period long subsequent to the date fixed in the warrant of the Court of Circuit without any authority to that effect, and the Court deeming this practice very objectionable and irregular; I am desired to request, that you will instruct the several magistrates within your division, whenever they may have occasion to postpone the execution of a convict sentenced to suffer death beyond the period fixed in the original warrant, that they return such warrant to your Court with a report of the circumstances of the case, and wait the receipt of a second warrant, or an order endorsed upon the first, by the Court of Circuit, containing a definite date for carrying the postponed sentence into effect.

No. 306.

To the Several Courts of Circuit, and Commissioner of Cuttack.

January 28, 1825.

I am directed by the Court of Nizamut Adawlut to transmit to you the accompanying copy of a letter from the chief Secretary to Government, dated the 6th instant, directing that the joint magistrates shall possess exclusive control over the police establishments maintained in their local jurisdictions, and to desire that you will furnish the several magistrates within your division with a copy of the letter in question, for their information and guidance.

Copy of a letter from the Chief Secretary to Government, to the Register of the Nizamut Adawlut, dated the 6th January 1825.

I am directed by the Right Honorable the Governor General in Council to acknowledge the receipt of your letter of the 3d ultimo, with its enclosures, and to communicate you the entire concurrence of Government in the opinion express-

ed by the majority of the Court, that the joint magistrates should possess exclusive control over the police establishments maintained in the local jurisdictions assigned to such joint magistrates.

2. The Governor General in Council is pleased to resolve, that the principle shall be considered applicable to all officers who are now employed under that designation; and it is his intention, in the future nomination of persons to the office of joint magistrate, to vest them specifically with that control, subject to the provisions of the existing regulations.

No. 307.

To the Several Courts of Circuit, and Commissioner of Cuttack.

February 11, 1825.

THE Court of Nizamut Adawlut having adverted to the rules and orders in force relative to insane persons, as noticed in the margin*; I am directed to transmit, for your information, the following additional instructions, relative to such persons; and to desire, that you will communicate the same to the several magistrates and joint magistrates within your jurisdiction.

2. Insane persons, not charged with any criminal offence, who may be sent by the police officers to the magistrates or joint magistrates, in pursuance of the sixth clause of Section 30, Regulation XX. 1817, or who may be brought before the magistrates or joint magistrates without the intervention of the police officers, should, after the necessary inquiry to ascertain their actual state of insanity, be disposed of as directed in the Court's circular order of 12th June 1816, and if sent to the insane hospital of the division, will of course be subject to the rules for the management of those hospitals passed by the Governor General in Council on the 23d October 1818; or if detained by the magistrates or joint magistrates for any special reasons, under the discretion given by the circular order of the 12th June 1816, will be included, in the explanations, in the half-yearly reports of prisoners to be transmitted, through the Courts of Circuit, to the Nizamut Adawlut,

* 1. Circular order of the Nizamut Adawlut to the Courts of Circuit, dated 6th January 1801, the purport of which, as far as it respects the police officers, has been since enacted in the sixth clause of Section 30, Regulation XX. 1817. See No. 24.

2. Circular order of ditto to ditto, date 12th June 1816, on the establishment of insane hospitals in the several divisions of the Courts of Circuit. See No. 165.

3. Circular order of ditto to ditto, respecting persons convicted before the Courts of Circuit, and exempted from punishment in consequence of insanity. See No. 233.

4. Circular order of ditto to ditto, dated 21st November 1823, respecting visits to the insane hospitals by the judges of Circuit. See No. 275.

5. Rules for the management and control of the native insane hospitals, passed by the Governor General in Council, and printed and circulated by order of Government on the 23d October 1818.

as directed in the order last mentioned. No further instructions, therefore, appear to be required concerning this description of insanes; except that the judges of circuit holding the periodical jail deliveries of the several zillahs and cities, should be careful to ascertain, by inquiry from the surgeon or otherwise, the actual condition and state of mind of all such persons who may be detained by a magistrate or joint magistrate, and issue any orders that may appear requisite and proper, consistently with the object for which they are kept in custody.

3. When persons brought before a magistrate or joint magistrate, in a state of alleged insanity, may be charged with having committed any criminal act, of a serious nature, such as, supposing them not to be insane, would render them on conviction liable to punishment, he should, in the first instance, make a full inquiry, to ascertain the fact of their real insanity; and if it be proved to his satisfaction, that the person charged is really insane, he should close his proceedings, with a statement of his opinion to that effect, and submit them to the Court of Circuit at the next sessions. On the other hand, if the insanity of the prisoner be not established to the satisfaction of the magistrate or joint magistrate, he should proceed, as in other cases of criminal charges, under the regulations in force.

4. The judge of circuit to whom the proceedings of a magistrate or joint magistrate may be submitted, in conformity with the above paragraph, after inspecting them and seeing the prisoner or prisoners to whom they refer, will pass such orders as may appear proper in each case; and, if satisfied of the actual insanity of the prisoner, will instruct the magistrate or joint magistrate to keep him in further custody, till restored to a sane state of mind, or send him to the insane hospital of the division, to remain there until his sanity is restored. But in all the cases here referred to, when the prisoner may be charged with the commission of a serious criminal offence, and cannot be immediately brought to trial, on account of his insane state of mind, he should, on his discharge from the insane hospital, or on his being pronounced sane by the surgeon of the station at which he may have been kept in custody, be again brought before the magistrate or joint magistrate by whom the charge against him may be properly cognizable, that he may be regularly put upon his trial, and the proceedings on the charge against him be completed by acquittal or conviction before the proper tribunal, whether that of the magistrate or joint magistrate, or of the Court of Circuit, or Nizamut Adawlut, according to the nature and circumstances of the case.*

5. The above instructions suppose the prisoner charged with a criminal offence, to be in a state of insanity at the time of his being

* See No. 62.

brought before the magistrate or joint magistrate receiving the charge, so that he cannot be put upon his trial. A similar course of proceeding, the Court observe, would be proper in the event of his having been committed by the magistrate for trial before the Court of Circuit, and found insane by that Court at the time of trying the commitment; in which case the trial must necessarily be postponed, until the prisoner be in a state of mind sufficiently sane to admit of his plea and defence.*

6. It is scarcely necessary to add, that satisfactory proof of insanity at the time of the act being committed, as it would preclude the imputation of guilt, must also exempt the insane person from conviction and punishment. But a final acquittal on this ground should not, in the judgment of the Court, be pronounced without a regular trial; and in cases that would on conviction be referrible to the Nizamut Adawlut,† the Court have already instructed the Courts of Circuit, by their circular order of 8th May 1820, to transmit their proceedings, with those of the magistrates, for the revision and final sentence of the Nizamut Adawlut.

No. 320.

To the Several Courts of Circuit, (except Moorshedabad,) and Commissioners of Cuttack and Rungpore.

December 29, 1826.

I am desired by the Court of Nizamut Adawlut to forward to to you the accompanying copy of the remarks of the civil surgeon of city Moorshedabad, relating to the cure and prevention of cholera morbus, with extract (paragraph 3) of a letter written by order of the Court to the Secretary to Government in the Judicial department on this date.

2. You are requested to forward copies of the above documents to the several magistrates and joint magistrates within your division, for their information and guidance.

Remarks of the Civil Surgeon of the City of Moorshedabad, dated 7th April 1826.

In consequence of the so numerous, sudden, and fatal attacks of the cholera, in December, the whole twelve having been carried off in the space of eight days, and after a very few hours' illness each, and the disease not appearing to me to be at all under the control of any medicine, which either my assistant, Doctor Burt, or myself could think of; I wrote an official letter to the magis-

* See No. 62.
† The reference prescribed in this paragraph need not be made—See No. 184, Part III.

trate, strongly recommending, as the only measure in my opinion which could be adopted at all likely, under existing circumstances, to prove beneficial, that the whole of the patients should immediately be removed from the hospital, which was instantly agreed to; and on the 18th December one-half of the patients were removed to an apartment in the jail, which was kindly given up by the magistrate on the occasion, the site of which is not more than 5 or 600 yards from the insane hospital, and the other half to the Moidapare native hospital, the distance of which is not more than one-third of a mile, and such, I am happy to say, was the salutary effect of the change, that not a single case of cholera afterwards occurred, from the day of their removal, until their return, a period of two months and ten days; and since their return only one case has occurred, and that only a few days ago, and which patient has since recovered, and who, I ought to mention, was one of those few patients who escaped from a similar attack he had in December. The above is, in my opinion, perhaps one of the strongest proofs of the very circumscribed and limited extent of the infectious nature of the disease; and the benefit experienced on the occasion was fortunately such, that nothing in my opinion ought to prevent its being adopted in all similar cases.

Extract of a letter from the Register to the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 29th December 1826.

PAR. 3. The fact alluded to in this paragraph is of so very singular a nature, and it being so desirable an object, that every circumstance relative to the cure and prevention of that formidable disease, the cholera morbus, should be generally known, the Court propose to circulate the remarks of the surgeon on that subject which accompany this report.

No. 321.

To the Several Magistrates and Joint Magistrates in the Western and Lower Provinces.

December 29, 1826.

I AM desired by the Court of Nizamut Adawlut to forward to you the accompanying extracts (paragraph 46) of a letter from the second judge of the Dacca Court of Circuit, under date the 19th of October last, and (paragraph 26) of a letter written by order of the Court to the Secretary to Government in the Judicial department on this date, relative to the alleged prevailing custom of the inhabitants of a village entertaining the darogah and his followers on their proceeding into the interior.

Extract of a Letter from the second Judge of the Dacca Court of Circuit to the Register of the Nizamut Adawlut, dated the 19th October 1826.

PAR. 46. In conclusion, I beg to add, I fully concur in the sentiments expressed by Mr. Morrieson of the benefit that would ensue to the inhabitants of the country from the total abolition of the system of muzkoory peadahs; but I should apprehend, that in this case an increase of the regular burkundazes at every thanna in this division would be absolutely necessary for carrying on with effect the duties of the police. And if measures could be adopted for putting a stop to the prevailing custom of the inhabitants of a village entertaining the darogah and his numerous followers, whenever he may find it necessary to proceed into the interior, a visit from the police would not be so much dreaded as is the case at present, and to avoid which leads to the concealment of many petty offences. Of these several instances came before me at the Backergunge session, in cases of simple burglaries, where the prosecutors acknowledged, that to avoid the expense and vexation attending the coming of the police, they had immediately repaired the *nuccubs* without giving information of the robbery.*

Extract of a Letter from the Register of the Nizamut Adawlut to the Secretary to Government, in the Judicial Department, dated the 29th December 1826.

PAR. 26. The attention of the several magistrates, will, however, be directed, by a circular order, to the subject noticed in the latter part of the former paragraph; and they will be instructed to adopt such measures as may seem best calculated to effect the abolition of the usage therein adverted to.

No. 323.

To the Several Courts of Circuit.

April 6, 1827.

AN instance having recently occurred, in which a judge of circuit proceeded to try certain cases committed by a joint magistrate at a station different from that at which the joint magistrate resides, in opposition to the provisions of Regulation XVII. 1825, without having obtained the previous sanction of Government or of the Nizamut Adawlut to that effect, as required by Section 3, Regulation VIII. 1822, and the whole of the proceedings being vitiated by this irregularity: I am directed, with a view to prevent the possibility of the recurrence of such an irregularity, involving

inconveniences of so serious a nature, to request your attention to the provisions of the enactments above cited; and to desire, that on every occasion on which you may deem it expedient, that a prisoner committed at one station should be brought to trial at another, you will in the first instance represent the circumstance for the consideration and orders of Government, or of the Nizamut Adawlut, and in all cases where authority for deviating from the usual course of circuit may have been obtained, you will certify the same on the records of your proceedings.

No. 324.

To the Several Courts of Circuit, and Commissioners of Cuttack and Rungpore.

April 20, 1827.

THE Court of Nizamut Adawlut direct me to transmit to you, for your information and future guidance, the accompanying extract (paragraph 64) from the Government resolutions on the annual report furnished by the superintendent of police for the Lower provinces, for the year 1825, dated the 8th of March last; and to request that you will strictly adhere to the instruction therein contained.

Extract from the Resolutions of Government, under date the 8th March, on the Report of the Superintendent of Police in the Lower Provinces, for the year 1825.

PAR. 64. The Nizamut Adawlut will be requested to call the attention of the Courts of Circuit to the more regular transmission to the superintendents of such parts of their reports at the conclusion of the sessions, as have special reference to the police of the districts of their respective divisions. It appears from paragraph 110 of Mr. Barwell's letter, that the want of this information has induced him to defer sending in his annual report beyond the prescribed period.

No. 325.

To the Several Courts of Circuit, and to the Commissioner of Cuttack.

May 4, 1827.

IT having come to the notice of the Nizamut Adawlut that, on the occasion of delivering over to the care of their relations or friends, individuals who have been acquitted by the Nizamut Adawlut, upon the ground of insanity after trial on a charge of

murder, the several magistrates are frequently in the habits of omitting to mention a specific penalty in the bond, which the parties receiving charge of the liberated individuals, are required to execute for the prevention of further mischief; and the Court being apprehensive that, where this is the case, from the undefined nature of the responsibility, engagements may be executed, without due consideration, to the manifest danger of the community: your are requested to instruct the several magistrates within your division that, in every instance where this Court may direct the release of a prisoner who had been insane, subject to the prescribed conditions, they should require the parties engaging to take charge of the person released to execute an engagement in a specific penal sum suited to their rank and condition of life, to be forfeited in the event of their not taking such care of the individual committed to their charge as may prevent his doing further mischief.*

No. 326.

To the Several Courts of Circuit.

May 18, 1827.

I AM desired by the Court of Nizamut Adawlut to acquaint you, that having lately had occasion to take into consideration the instructions contained in the Court's circular order, under date the 4th of February 1818,† with reference to the provisions contained in preceding and subsequent regulations on the same subject, they are of opinion, that the circular order in question should be considered to be no longer in force

No. 329.

To the Several Courts of Circuit, Commissioners of Cuttack and Rungpore.

October 3, 1827

THE Court of Nizamut Adawlut direct me to forward to you the accompanying copy of an extract (paragraph 8) of a letter to my address from the Secretary to Government in the Judicial Department; and to request, that you will circulate the same to the several magistrates in your division, with instructions that they conform to the mode of proceeding therein pointed out, with regard to the employment of muzkooree peons.

* See Nos. 61 and 62, Part III, and appendix for the form of the Bond.
† No. 191, omitted in consequence of this Circular.

Extract of a Letter from the Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut, under date the 30th of August last.

Par. 8. The vice-President in Council concurs with the Court, that it would not be expedient to issue any general prohibitory orders against the use of muzkooree peons; at the same time, with a view to check as much as possible their employment in cases not strictly provided for in the regulations, His Lordship in Council conceives, that it would be desirable to instruct the magistrates to require darogahs to report, whenever they may employ persons of that description; stating their reasons for so doing, and by whom their tulubana or diet allowance (which should in no case exceed the rate specified in Clause seventh, Section 27, Regulation XX. 1817,) may have been defrayed.

No. 331.

To the Several Courts of Circuit, and Commissioners of Cuttack and Rungpore.

October 3, 1827.

The Court of Nizamut Adawlut having reason to apprehend, that much unnecessary and vexatious interference is exercised in the mofussil by police officers, and considering it highly desirable that the interference of those officers should be limited to cases in which it may be necessary for the protection of the public interests; I am directed to request, that you will instruct the several magistrates within your jurisdiction to prohibit their police officers from interfering with petty offences in any way which is not positively required by Regulation XX. of 1817 or other regulation enacted for their guidance.

END OF PART I

CIRCULAR ORDERS,

PASSED BY

THE NIZAMUT ADAWLUT,

AND COMMUNICATED TO THE

Courts of Circuit and Zillah and City Magistrates,

BY THE

REGISTER OF THAT COURT.

PART II.

1828—1837.

No. 1.

To the Several Courts of Circuit, and the Commissioner of Cuttack.

February 1, 1828.

I AM desired by the Court of Nizamut Adawlut to forward to you the accompanying copy of instructions, in addition to those communicated to you on the 23rd of January 1810,* on the subject of taking evidence without oath.

2d. You will be pleased to forward a copy of the above instructions to the several magistrates within your division, for their information and guidance.

By the Circular Order of the Nizamut Adawlut, dated January 23d 1810, the judges of circuit and magistrates, were instructed to take the depositions of persons examined, however young, on oath, or a solemn declaration, provided they appear to understand the nature of an oath.

3d. The order does not proceed to say whether a person young in years, not appearing to have a sufficient sense of the nature of

* See No. 62, Part I.

an oath, is to be examined without oath or solemn declaration, or not to be examined at all.

4th. The Court of Nizamut Adawlut are of opinion, that as by the constitution of the criminal Courts and the rules prescribed for their guidance, an oath or solemn declaration is indispensable to evidence, no child who has not capacity to be sworn, or to make the solemn declaration allowed, in certain cases, to be substituted for an oath, should be examined in a criminal trial at all.

5th. They direct, therefore, that, in trials before the Courts of Circuit and the foujdaree Courts, where any person, young in years, may appear not to have a sufficient sense of the nature and obligation of an oath, such person shall not be examined at all; but that, in all such cases, the alleged and apparent age of the person, and the queries and answers which may have led to the conclusion, that the person in question is not of capacity to be sworn, shall be fully and exactly recorded upon the proceedings.

5th. These instructions are not meant to extend to preliminary enquiries before the police, or to investigations made by magistrates in cases of a nature and magnitude which it may not be within their competence finally to determine. On such occasions the Court is aware of no objection to the examinations of the young persons above described being taken without oath, and placed among the records of the office in which they may be taken not as evidence in themselves, but to be used as a clue to evidence

No. 3.

To the Several Courts of Circuit, and Commissioners of Cuttack and Rungpore.

May 16, 1828.

I AM desired to forward to you herewith, copy of the concluding paragraph of the resolutions of Government on the report of the superintendent of police, Lower Provinces, for the year 1826, and with reference to the observations therein contained, to call your attention to the extract from the resolutions of the preceding year, which accompanied this Court's Circular Letter, dated the 26th of April 1827, and which requires the regular transmission to the superintendent of police, of such parts of the circuit judges' reports at the conclusion of the sessions, as have special reference to the police of the districts of their respective divisions.

Extract from the Resolutions of Government on the Report of the Superintendent of Police in the Lower Provinces, for the year 1826.

PAR. 61. In the orders of Government, on the last annual report from the superintendent of police, the Court of Nizamut Adawlut were requested to desire the judges of circuit to transmit regularly to the superintendent, such parts of their

reports as have reference to the police of the districts. His Lordship in Council is sorry to observe, from Mr. Barwell's remarks, that the order, which he concludes was issued by the Nizamut Adawlut, has been attended with such little effect, and he directs that the subject may be again noticed to the Court.

No. 4.

To the Several Courts of Circuit and Commissioners of Cuttack and Rungpore.

June 6, 1828.

I AM desired by the Court of Nizamut Adawlut to direct, that on all future occassions, in addition to the letter of Government, conveying authority for bringing individuals to trial, who may be charged with offences committed in places out of the limits of the British provinces, a copy of the letter of the magistrate applying for such authority, may be also filed with the proceedings in the case.

2. You are requested to issue the requisite instructions to the several magistrates within your jurisdiction, for the purpose of giving effect to the above order.

No. 5.

To the Several Magistrates and Joint Magistrates.

July 18 1828.

I AM desired by the Court of Nizamut Adawlut, to transmit to you the accompanying extract (paragraph 7,) of a letter from the Secretary to Government, in the Judicial Department, under date the 26th ultimo, and to request, you will strictly conform to the instructions therein contained, and furnish circuit judges with all such official correspondence as they may deem it necessary to require for their information.

Extract of a Letter from the Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut dated the 26th June, 1828.

PAR. 7. For the reasons assigned by Mr. Lowther, in the 33d paragraph of his letter, the Governor General in Council is inclined to think, that the magistrates should be instructed to comply with any application from the judges of circuit to inspect the English correspondence of their offices, whether with reference to any particular foujdaree case pending before them, or for the general purpose of acquainting themselves with all official matters connected with the welfare and management of the district; and

should the Court of Nizamut Adawlut see no material objection, the Governor General in Council would wish the magistrates and Courts of Circuit to be informed accordingly.

No. 9.

To the Several Magistrates and Joint Magistrates.

September 26, 1828.

THE Court of Nizamut Adawlut, considering the confinement of an individual in jail, on a requisition of security for good conduct, without proof of recent circumstances, warranting the imputation of dishonest livelihood at the time of apprehension, to be a manifest act of injustice, direct me to desire you will carefully abstain from so erroneous a construction of Regulation VIII. of 1818. The Courts of Circuit will be particularly required to report any deviation from these orders.

No. 10.

To the Superintendents of Police, and the Several Magistrates.

September 26, 1828.

IT having been brought to the knowledge of the Nizamut Adawlut, that large sums realized from the proceeds of the ferry establishment, have been appropriated to objects unconnected therewith, instead of being applied to the provisions of safe and commodious boats, and the general improvement of ferries, they direct me to request your strict observance of the provisions of Clause first, Section 7, Regulation VI of 1819, previous to any application of the funds of the institution to the distinct purposes enumerated in the second clause of the abovementioned enactment.*

No. 14.

To the Several Courts of Circuit and Commissioners of Cuttack and Rungpoor.

December 5, 1128.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information and guidance, the accompanying copies of a letter from the magistrate of city Dacca, dated 15th June, 1827, and of the letter written in reply to that officer, dated the 13th July of that year, relative to the provisions of Regulation III. of 1803.

* No sum can now be disbursed without the permission of the Superintendent of Police being first obtained.

2. You are requested to furnish copies of the same for the information and guidance of the several magistrates subject to your authority.

Copy of a letter from the Magistrate of City Dacca to the Register of the Court of Nizamut Adawlut, under date the 15th of June, 1827.

I have the honor to request that you will lay the accompanying original petition presented to this Court by Abdool Ruheem before the Nizamut Adawlut, and request their orders on the following point.

2d. Certain deeds having been filed in a civil suit, and a decree passed by the Sudder Dewanny Adawlut, founded on the integrity of the same; is it competent for a magistrate to entertain and investigate on its merits a criminal prosecution, for the forgery of those very deeds, instituted by the party cast, against the decreedar.

3d. The Court will observe from the petition, that there are several peculiar circumstances attending the case in question, and particularly that the documents alluded to were held by one of the judges of the Sudder Dewanny Adawlut, and also by the judge of the city court of Dacca, to be unworthy of credit.

4th. The Regulations and Circular Orders not affording any instructions, as far as I can ascertain, for the guidance of the criminal Courts on this subject, (Section 12, Regulation III. 1793, have reference to the civil Courts only, I conceive,) I have considered it my duty to refer the point for the orders of the Nizamut Adawlut, previous to admitting the petition.

Copy of a letter from the Register of the Court of Nizamut Adawlut to the Magistrate of City Dacca, dated the 13th of July, 1817.

The Court of Nizamut Adawlut have had before them your letter dated the 15th ultimo, forwarding an original petition from an individual named Abdool Ruheem, and requesting the opinion of the Court on the following question. Certain deeds having been filed in a civil suit, and a decree passed by the Sudder Dewanny Adawlut founded on the integrity of the same; is it competent to a magistrate to entertain and investigate on its merits a criminal prosecution for the forgery of those very deeds instituted by the party cast, against the decree holder.

In reply I am desired to communicate to you the opinion of the Court, that, by analogy to the case of perjury, the preferring of accusations for which offence by parties in civil suits has been prohibited by Regulation III. 1801, it is not competent to a magistrate to entertain a charge founded on the alleged forgery of a document which had been exhibited in a civil Court, unless the judge or judges of such civil Court shall have directed a prosecu-

tion for forgery, or expressly declared that the party aggrieved by such document is at liberty to prosecute.

The original petition which accompanied your letter is herewith returned.

No. 17.

To the Several Magistrates and Joint Magistrates.

March 13, 1829.

I AM desired by the Court of Nizamut Adawlut to transmit to you for your information aud guidance, the accompanying extracts, paragraph 43, of Mr. Gorton's Report on the conclusion of the 1st half yearly sessions of 1828 for the districts comprising the Benares division; and paragraph 14, of a letter written to the Secretary to Government, in the Judicial Department, by order of the Court on this date; and to request you will strictly caution your police officers, with a view to prevent any abuse, on their part, of the discretion with which they are vested.

Extract of a Letter from Mr. Gorton, late 2nd Judge of the Benares Court of Circuit, to the Register of the Nizamut Adawlut, dated the 31*st December*, 1828.

43. It appears to me desirable, and my object in bringing the subject forward, is to prevent the evil (and it is one of no ordinary nature, for a man, on whose daily labor his family, perhaps, look for support, to be taken up and thrown into jail on bare suspicion, or on the oath of a person, perhaps, inimical to him,) which an indiscriminate exercise of authority by the thannadars, in apprehending persons charged with or suspected of crimes, may occasion. The attention of the magistrates of those districts, at least where the disproportion of acquittals is great, should be directed to the subject. I cannot suppose that it is intended as an undeviating principle, that persons are to be apprehended and thrown into jail on the bare *oath* or *suspicion* of a prosecutor, or because the thannadar suspects them, or that the magistrates are not vested with the power to control and restrict the thannadars in this respect; or if the regulations do not allow the magistrates such, I think they should be invested with it. I am, however, of opinion, that nothing further is necessary than that the magistrate should point out to the thannadars all instances where they should not have sent the suspected persons to the sudder station, but should have admitted them to bail (if necessary), and have awaited their instructions. I do not mean to say that thannadars do not sometimes adopt this measure, or that the magistrates do not notice instances of persons being apprehended and sent in on insufficient grounds; still I cannot but help thinking that much good may be effected,

and the subject is of sufficient importance, if the attention of the magistrates be specially directed to it.

Extract of a Letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 13th of March, 1829.

14. The Court fully recognize the expediency of requiring from the police officers the greatest caution in the exercise of their authority to apprehend persons on suspicion of crime, as noticed in the 43rd paragraph of the judge's communication. The great disproportion of convictions to acquittals, observable in all the districts comprised in the present report, but more particularly in Azimghur and Juanpore, strongly proves the necessity of diligent supervision on the part of the magistrates, with a view to prevent any abuse of the discretion with which their police officers are vested. A copy of this paragraph of Mr. Gorton's letter will be circulated to the several magistrates, for their information and guidance.

No. 18.

To the Several Commissioners of Circuit.

April 3, 1829.

I AM desired by the Court of Nizamut Adawlut to forward to you for your information, the accompanying copy of a letter and its enclosure, from the Secretary to Government in the Judicial Department, dated the 10th ultimo, transmitting copy of an extract from the proceedings of Government in the Military Department.

2d. You are requested to inform the magistrates and joint magistrates within your division, of the general orders contained in the extract above mentioned.

Copy of a Letter from the Secretary to Government, in the Judicial Department, to the Register of the Nizamut Adawlut, dated the 10th of March, 1829.

I am directed by the Honorable the Vice-President in Council to desire you will lay before the Court of Nizamut Adawlut, the accompanying copy of an extract from the proceedings of Government in the Military Department, dated the 23d ultimo, with a request that they will direct the several Commissioners of circuit to inform the magistrates within their respective divisions, of the General Orders contained in the extract above mentioned.

No. 418, B.

Extract from the Proceedings of the Right Honorable the Governor General in Council, in the Military Department, under date the 23d February, 1829.

No. 52, A, of 1829.

General Orders by the Right Honorable the Governor General in Council.

Fort William, February 23d, 1829.

It having been brought to the notice of Government, that the Regulations of the 4th of November, 1824, which were enacted with the intention of opposing a check to desertion in the Native army, have failed in their object, while their existence subjects native officers and soldiers, when on furlough, to vexatious interruption; the Governor General in Council has been pleased to direct, that the authority given to thannadars, police darogahs, chuprasies, &c. of calling for leave of absence, certificates shall be withdrawn, and that such powers shall not be exercised, except under the immediate instruction of magistrates of districts.

2d. Commanding officers of regiments will, as formerly, apply for the aid of the civil authorities for the apprehension of deserters; and subordinate police officers, when duly authorized by the magistrate of the district, will be warranted, as heretofore, in detaining persons suspected of desertion.

No. 19.

To the Several Magistrates and Joint Magistrates.

April 3, 1829.

I AM desired by the Court of Nizamut Adawlut to transmit to you the accompanying extracts, paragraphs 4, 5, and 6, of a letter from the Secretary to Government in the Judicial Department, under date the 10th ultimo, and to request your strict adherence to the rule cited in the 4th paragraph, with a view to prevent the indiscriminate summons or apprehension of persons charged with petty offences.*

Extract of a Letter from the Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut, dated the 10th of March, 1829.

4. The practice adopted by the Magistrate of Tipperah, as stated in his letter, of summoning only one defendant in the first instance, and postponing the summons of others until he has taken

* See No. 62 of this part.

the evidence for the prosecution, is not strictly conformable to the Regulations; nor is it, in the judgment of the Vice-President in Council, so well calculated to secure the object intended, as an adherence to the rule prescribed in Clause sixth, Section 2, Regulation III. 1812. which directs, that "With the view of further restraining the institution of prosecutions for adultery, fornication, calumny, abusive language, trespasses," and assault, which ordinarily prove to be unfounded, misrepresented, or greatly exaggerated, the magistrates are hereby strictly prohibited from issuing any process on these, as well as charges for more heinous offences, without previously examining the prosecutor as to the specific facts of the case, and satisfying themselves that adequate grounds exist for proceeding against the accused party. In cases, likewise, in which the magistrate shall see grounds to distrust the truth of a charge, he shall, previously to issuing process against the accused, summon the witnesses named by the prosecutor, or as many of them as he may judge proper, and examine them as to their knowledge of the facts and circumstances which are the subject of the complaint."

5. It appears, indeed, to the Vice-President in Council, extremely desirable that the attention of the magistrates and joint magistrates should be specially directed to an observance of that rule; and I am desired to request, that the Court of Nizamut Adawlut will issue a circular order on the subject, with a view to prevent, as far as practicable, the indiscriminate summons or apprehension of persons charged with petty offences.

6. The Vice-President in Council trusts that a due attention, on the part of the magistrates and joint magistrates, to that rule. and a proper exercise of the authority vested in them, for the punishment of unfounded and vexatious complaints, will, in a great measure, obviate the evils pointed out by Mr. Ross, in your letter before noticed.

No. 21.

To the Several Commissioners of Revenue and Circuit.

April 24, 1829.

I AM desired, by the Court of Nizamut Adawlut, to forward to you the accompanying copy of an extract (paragraph 33,) from a letter to my address, from the late third judge of the Bareilly Court of Circuit, dated the 27th of February last, and to desire that you will refrain from the objectionable practice therein adverted to, and strictly interdict it on the part of those subject to your authority.

Extract of a Letter from the third Judge of the Bareilly Court of Circuit, to the Register of the Nizamut Adawlut, dated the 27th of February, 1829.

33. I beg leave to mention a practice which appears to me to be highly objectionable, and which is but too prevalent among the public officers, judicial and revenue; namely, that of transacting their public business in their private residences, and not attending regularly the public cutcherries. It is quite needless for me to dwell on the numerous evils which result from this practice: a magistrate or collector can never be as accessible to the natives in his own house as in the public cutcherry; and unless there are fixed hours for transacting business in the public cutcherries, petitioners, &c. &c. will be either deterred from attending, or constantly subject to much inconvenience and expense. It would, perhaps, be useless to fix any certain number of hours, (as, I believe, was done many years ago,) during which the magistrates and collectors should attend, as the time must, of course, depend on the quantity of business to be transacted; but the attention of the commissioners of revenue and circuit might be directed to the subject.

No. 22.

To the Several Commissioners of Circuit.

May 1, 1829.

I AM desired, by the Court of Nizamut Adawlut, to forward to you, for your information and guidance, the accompanying extract (paragraph 2,) from a letter written to the Court, by the Secretary to Government in the Judicial Department, dated the 24th of March last; and to request that you will communicate those instructions to the magistrates and joint magistrates under your authority, and that you will yourself, on all future occasions, conform to the instructions therein contained.*

Extract of a Letter from the Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut, dated the 24th of March, 1829.

The Court are requested to instruct the several magistrates* and joint magistrates, to submit to the Commissioners of circuit, for their examination, every case of violent affray, attended with aggravating circumstances, in which the servants of an Indigo factory may hereafter be engaged, whether the European at the head of the establishment shall have been included in the charge or not.

* If this Circular is in force the cases alluded to should be sent to the Superintendent of Police in the Lower Provinces.

Each of the Commissioners of circuit should also be desired by the Court, to furnish with his annual report, in his capacity of superintendent of police, a specific statement of such cases.

No. 23.

To the Several Commissioners of Circuit

May 1, 1829.

THE Honorable the Court of Directors having deemed it to be desirable, with a view to prevent the possibility of the detention of any prisoner beyond the term of imprisonment adjudged against him, that registers should be established, shewing the nature of the sentence passed on each of the convicts in the several jails; you are requested to instruct the magistrates, within your division, to lose no time in preparing a register book of unexpired sentences (to be kept in the English language,) passed by the Nizamut Adawlut and Courts or Commissioners of circuit, exhibiting the following particulars.

1 Names of prisoners
2 Nature of offences
3. Term of imprisonment.
4 Date of sentence
5 Date on which the sentence will expire.
6 Removed to the jail of ———.
7 Received from the jail of ———.

The registry book is to be formed retrospectively, and to contain all sentences now unexpired, and for the future, the entries are to be made by the several magistrates immediately on their receiving the warrant: each registry book is to comprise all the sentences passed at the station of the magistrate, (or joint magistrates where there may be jails,) whether the prisoners may be removed from or detained in the jail of that particular station; and, in like manner, each registry book is to comprise the names of the prisoners in the jail of the station, whether the prisoners may have been originally sentenced at the particular stations or received from another district; but with reference to such prisoners, the necessary entry will, of course, be made in the 6th or 7th columns, as the case may be.

The registry books, in question, should be laid before the several Commissioners of circuit, immediately after the conclusion of each sessions, and it will be your duty to see that they are not allowed to fall into arrears; and it will further be expected that you refer to the original warrant, whenever you may have any reason to doubt the accuracy of an entry.

For the sentences passed by the magistrate and joint magistrate,

it will be sufficient, in the Court's opinion, that a registry book, constructed on the same principle as the above, be kept by the Foujdarry Nazirs, and submitted for the inspection of the magistrate at the commencement of each month.

You will be pleased to furnish the several magistrates in your division with a copy of this letter, for their information and guidance.*

No. 24.

To the Several Commissioners of Circuit.

May 8, 1829.

THE Court of Nizamut Adawlut deeming it desirable that they should be made acquainted with every instance in which a magistrate may have evinced want of judgment in making over prisoners to take their trial before your Court, I am directed to request your attention, in future, to the following rule.

In all cases of acquittal, you are, in future, required to specify, in that column of the statement of cases of acquittal appropriated to remarks, whether you deem the commitment to have been made on sufficient grounds, and after due inquiry into the case by the magistrate; or whether you consider the commitment to have been erroneous or defective: and you will, at the same time, forward a copy of the magistrate's order of commitment for the consideration and orders of this Court.†

No. 26.

To the Several Commissioners of Circuit

May 1[illegible], 1829.

I AM desired by the Court of Nizamut Adawlut to forward to you for your information and guidance, the accompanying extract (paragraph 28,) from a letter written by me, by order of the Court of Nizamut Adawlut, to the Secretary to Government in the Judicial Department, under date the 26th September last; and of paragraph 5 of a letter this day addressed by me to the same authority, connected with the report furnished by the late 3d judge of the Patna Court of Circuit, on the conclusion of the 1st sessions of that division for the year 1827, together with an extract from a letter written to the late Benares Court of Cirucit,

* See Nos. 167 and 178 of this part, by the latter the Register here alluded to is discontinued and the one prescribed in No. 167 substituted in its stead.
† See No. 168 of this Part.

on the 31st August of that year, containing the construction given by the Court of Regulation VIII. of 1818.

2. You are requested to furnish the several magistrates in your division with a copy of the former extract, and to require them to conform thereto.

Extract from a letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 26th of September, 1828.

28. The laws which regulate the demands of security from persons of suspicious character are susceptible of considerable modification and improvement, and there is too much reason to belive that Mr. Elliott's report presents no exaggerated picture of the evils experienced from the present system of procedure in such cases. The confinement of an individual in jail, on a requisition of security for good conduct, without proof of recent circumstances warranting the imputation of dishonest livelihood at the time of apprehension, is a manifest act of injustice. Regulation VIII. 1818. could never have been intended to authorize a practice of this nature; and the magistrates will be accordingly directed to abstain from so erroneous a construction of the enactment, while the Court of Circuit will be particularly required to report any deviation from these orders to the Nizamut Adawlut, with a view to its being brought to the serious notice of Government. The attention of His Lordship in Council will, no doubt, be directed to the proposition of the circuit judge for restricting the powers of the magistrates to the requisition of security from persons of dangerous character alone, whose restraint is necessary for the public welfare. It must, however, be observed, that by Clause 2, Section 8, Regulation VIII. 1818. a circuit judge is empowered, on the prisoner's petitioning, to call for the proceedings, and annually modify or confirm the order of the magistrate according to the circumstances of the case.

Extract from a Letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 15th of May, 1829.

5. On the subject noticed in the 33d paragraph of your letter, I am directed to state the opinion of the Court, that the period for which the magistrates are now authorized to detain persons in default of giving security, is not too long, supposing due Controul to be exercised over their proceedings; but the Court are, at the same time, of opinion that the orders of the magistrate, in such cases should be at all times open to revision. A construction to this effect was given by the Nizamut Adawlut on the 31st of August, 1827, with reference to the powers, in this respect, possessed by the Courts of Circuit at the sudder station. This construction will

be circulated to the several Commissioners of Circuit, with an intimation that they are equally competent to exercise the same powers.

Extract from a letter from the Register of the Nizamut Adawlut, to the Benares Court of Circuit, dated the 31*st of August,* 1827.

Fifthly.—Section 4. Regulation IV. 1825. should not be construed to preclude an individual in confinement for security, under the provisions of that rule, from preferring an appeal to the Court of Circuit at the sudder station, when no order may have been passed on his case by the judge of Circuit at the sessions of jail delivery preceding; and the judges of the Court of the sudder station are competent to pass such orders thereon, under the general regulations relative to appeals, as may appear in their judgment to be just and equitable.*

No. 28.

To the Several Commissioners of Circuit.

June 5, 1829.

I am desired by the Court of Nizamut Adawlut to forward to you for your information the accompanying copy of a circular letter, written by their order, on this date, to the several magistrates and joint magistrates, on the subject of a discrepancy in the English and Persian version of Clause ninth, Section 19, Regulation XX. 1827, relative to the use of handcuffs.†

To the Several Magistrates and Joint Magistrates.

I am desired by the Court of Nizamut Adawlut to forward to you the accompanying extract, paragraph 37, from Mr. Patton's report on the conclusion of the 2d sessions of 1828 for the Moorshedabad division; and paragraph 17 of a letter this day, written to Government by order of the Court, in order that you may adopt the necessary measures to correct the error therein noticed.

Extract from a Letter from the late fourth Judge of the Moorshedabad Court of Circuit to the Register of the Nizamut Adawlut, dated the 10*th of April,* 1829.

37. In the course of the trial of a thanna mohurrir for mal-treatment of a European British subject, who had been falsely charged with murder, I had occasion to refer to the Persian translation of

* See No. 113, Part III. † See No. 41 of this Part.

Regulation XX. 1817, when an important error in the translation of Clause ninth, Section 19, appeared. In the English version, the darogah is declared to be competent to use handcuffs for the purpose of forwarding heinous criminals with safety to the magistrate's Court, whereas in the trans'ation the words *lazim khahud-bood* are used, which makes it incumbent on him to do so with respect to any person he may be pleased to consider a heinous criminal; thus affording a pretext for severity and an opportunity for abuse and extortion on the part of a native police officer, of which he is glad at all times to avail himself. I beg leave to suggest that the error should be corrected.

Extract from a letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 5th of June, 1829.

17. With reference to the discrepancy in the English and Persian version of Clause ninth, Section 19, Regulation XX. 1817, relative to the use of handcuffs, I am desired to state, that the magistrates will be instructed by a circular order, to rectify the error in the thanna and other copies of the Persian Regulations, and to take care that the discretion vested in the police darogahs is not abused.

No. 32.

To the Several Commissioners of Circuit.

July 24, 1829.

I am desired by the Court of Nizamut Adawlut to forward to you herewith the accompanying extract, (par. 2,) from a letter this day written by their order to the Secretary to Government in the Judicial Department, submitting Mr. Newnham's report on the termination of the 1st sessions of 1829 for Mynpooree, including the joint magistracy of Etawa: and to request that you will furnish the several magistrates and joint magistrates in your division with a copy of the same for their information and future guidance.

Extract from a Letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 24th of July, 1829.

Par. 2. It will be observed that in the fourth and fifth paragraphs of his letter of the first mentioned date, Mr. Newnham charges the late officiating joint magistrate with having unnecessarily subjected the prisoners committed by him to the indignity of being heavily ironed. On inspecting the calendar, however, the charges adduced appear to have been, with one exception, of a very

serious character; and though they were not proved on trial, it by no means follows that the officiating joint magistrate had not ample grounds for presuming the prisoners to be guilty, or that he did not consider the imposition of fetters to be necessary to their safe custody. The Court, however, being of opinion that this measure of severity should never be resorted to, except in extreme cases, or where the prisoner is of a character so dangerous as to render the imposition of fetters absolutely necessary to his safe custody, the several magistrates will be enjoined through the Commissioners of circuit to record on their proceedings of commitment their reasons for resorting to this measure, whenever they may deem it necessary to place fetters on a prisoner previous to his trial.

No. 38.

To the Several Magistrates and Joint Magistrates.

August 28, 1829.

I AM desired by the Court of Nizamut Adawlut to forward to you, for your information and guidance, the accompanying copy of an extract (paragraph 10,) from a letter to my address from the late 5th judge of the Benares Court of Circuit, dated the 9th of February last; and of paragraph 5 of the letter this day written by order of the Court to the Secretary to Government on the subject thereof, with the view to your adopting such measures as you may deem expedient for remedying the evil complained of.

Extract from a Letter from the late 5th Judge of the Benares Court of Circuit, to the Register of the Nizamut Adawlut, dated the 9th of February, 1829.

PAR. 10. The health of the prisoners appears to have been generally good, and the civil surgeon states that the number of admissions into hospital has been much increased by slight fevers from exposure to the sun, and by ulcers in the legs from the frictions of their irons. Only two deaths took place during the period under review.

Extract from a Letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 28th of August, 1829.

PAR. 5. Only two casualties had occurred amongst the prisoners,—a circumstance creditable to the surgeon and all concerned in the superintendence of the jail. It will be observed that the prevalence of fever is partly ascribed to "ulcers in the legs from the friction of irons." The Court are of opinion, that the evil alluded to may be obviated by proper precaution, and the several

magistrates will accordingly be instructed by a circular order to adopt the necessary measures, to prevent any bad consequences resulting from the use of irons, the most obvious of which appears to be to remove them on the first appearance of injury.

No. 40.

To the Several Magistrates and Joint Magistrates.

October 9, 1829.

I AM desired by the Court of Nizamut Adawlut to forward, for your information and guidance, the accompanying copy of a letter this day written by order of the Court to the magistrate of Nuddea, and to request your particular attention to the concluding paragraph of that communication.*

Copy of a Letter from the Register of the Court of Nizamut Adawlut, to the Magistrate of Zillah Nuddea, dated the 9th of October, 1829.

It having been represented to the Nizamut Adawlut that an individual named W. H. Tydd, who has a suit in this Court, and whose release from arrest under civil process was lately ordered by virtue of a writ of Habeas Corpus, (the civil arrest under such circumstances being deemed illegal,) has been since apprehended by the magistrate of the town of Calcutta previously to his actual liberation, and detained in custody on your application on a charge of a criminal nature; and the Court considering his detention in custody at the presidency, on account of any act which he may have committed in your district, to be highly irregular and unwarrantable, direct that you will immediately adopt such measures as you may deem best calculated to insure his speedy removal to your district, for the purpose of defending himself from any accusation which may have been there preferred against him: and the Court further direct, that in the event of your not being able to adopt any measure calculated to effect this purpose, you will without loss of time recall your application for the arrest of the individual in question, requesting the magistrate of the town of Calcutta to restore him to the place in which he was found prior to his apprehension.

I am also directed to instruct you, whenever you may have occasion to solicit the interference of the Calcutta magistrate, in aid of your own process, invariably to depute an officer of your own Court, for the purpose of receiving charge of the individual apprehended, and of undertaking the responsibility of securing his

* See Nos. 82, and 186, Part III.

appearance at your station, without exposing such individual to the hardship of unnecessary detention at the presidency.

No. 41.

To the Several Magistrates and Joint Magistrates.

October 9, 1829.

In continuation of my letter to your address under date the 5th June last, I am now desired by the Court of Nizamut Adawlut to forward to you, for your information and guidance, the accompanying copy of a letter to my address from the magistrate of zillah Sylhet, dated the 9th ultimo, together with copy of a letter this day written in reply by order of the Court.

Copy of a Letter from the Magistrate of Zillah Sylhet, to the Register of the Court of Nizamut Adawlut, under date 9th September, 1829.

I have the honor to acknowledge the receipt of your letter, under date the 5th of June last, forwarding an extract from a letter from the late fourth judge of the Moorshedabad Court of Circuit, dated the 10th September, 1829, and calling on me to correct the discrepancy between the English and Persian versions of part of Regulation XX. 1817. The fourth judge states, in the English version the darogah is declared to be *competent* to use handcuffs for the purpose of forwarding heinous criminals with safety to the magistrate's Court; whereas in the translation, the words "*lazim khahud bood,*" are used, which makes it *incumbent* on him to do so, with respect to any person he may be pleased to consider a heinous criminal.

The judges of your Court have not ordered what Persian words are to be inserted instead of "*lazim khahud bood*" in the Regulation; and it being left to the magistrate to use his own discretion in the translation, I consider it objectionable, as there may be in each zillah a different word inserted to explain the intent and spirit of the Regulation. I shall, therefore, be obliged by your submitting to the Court my desire, that I be supplied with the Persian words required to be substituted for "*lazim khahud bood,*" that there may be uniformity in each district of the wording of the intent of the Regulation. Literally, I should say the words *ikhtiaree darogah ast* would be the proper translation for *competent*; but then this would be extremely objectionable when an improper feeling existed, and would give the same power as the words *lazim khahud bood*, as being left entirely to his own discretion.

Reply to the above, under date the 9th October, 1829.

The Court of Nizamut Adawlut have had before them your letter dated the 9th ultimo, regarding the correction of the discrepancy between the English and Persian versions of Clause ninth, Section 19, Regulation XX. 1817, which are noticed in the Court's circular letter, dated the 5th June last.

In reply, I am desired to acquaint you that the Court see no objection to your suggested version of the passage alluded to.

The Court desire that you will, in communicating this to your police officers, take particular care to call their attention at the same time to the Clause succeeding that granting the permission to use hand-cuffs in cases of necessity, which Clause declares that they shall be held strictly accountable for any severity further than what may be essentially requisite for securing the persons of prisoners.

No. 43.

To the Several Magistrates and Joint Magistrates.

December 4, 1829.

Regulation XVII. of 1829, declaring the practice of burning or burying alive the widows of Hindoos illegal, and punishable by the criminal Courts, having been enacted by the Governor General in Council, I am directed by the Nizamut Adawlut to transmit to you a copy of special instructions in the Persian and Bengallee languages*, with a translation thereof in English, prepared by the desire and since approved by Government, for the guidance of your police officers.

2. You are accordingly desired to furnish a copy of the Regulation in the native languages, and of the special instructions above referred to, to the whole of the police officers under your authority.

3. In the event of any personal interference on your part on the occasion of any Suttee, you will be guided by the same rules established for the guidance of your police officers.

4. You are desired to take an early opportunity of impressing, personally, on your police officers, the propriety of circumspection in using any forcible means to prevent any Suttee, more particularly during the early period of its suppression, when great allowance is to be made for the feelings and prejudices of the people.

5. With the exception of aggravated cases, in which recourse may have been had to stupefaction or violence, you are enjoined to abstain from using irons, handcuffs, or other unnecessary means towards any persons apprehended under these rules; and in any

* Hindoostanee for Bareilly, Benares and Patna.

case deemed not bailable, the prisoners shall be invariably confined in the civil jail, and never in the criminal jail.

6. You are desired, as a temporary measure, on the occasion of any Suttee having been prevented, or of its having taken place subsequent to the receipt of these orders, to make a short report thereof to the Court.

7. You are directed to consider the circular orders under dates the 29th of April 1813, 4th of January 1815, and any others on the same subject that may have issued, as cancelled from this date, and you will adopt immediate measures for withdrawing them from all the *thannas* within your jurisdiction.*

8. Translations of the instructions to the police officers will be prepared as soon as practicable, and sent to you by a future opportunity.

Draft of Instructions to be issued by Magistrates to the Police Darogahs.

Whereas Regulation XVII. of 1829, for the purpose of abolishing the practice of burning or burying alive the widows of Hindoos, of declaring such practise illegal and punishable by the criminal Courts, has been enacted by the Right Honorable the Governor General in Council, copies of the same in the Persian and Hindoostanee languages are accordingly transmitted for your information

In giving effect to the rules of that Regulation, you will be guided by the following instructions.

1. The third Section of the Regulation declaring all *zemindars, talookdars*, or other proprietors of land, whether *malgoozaree* or *lakheraj*; all *sudder* farmers and under-renters of land of every description; all dependant *talookdars*, all *naibs*, and other local agents; all native officers employed in the collection of the revenue and rents of lands on the part of Government, or the Court of wards, and all *mundals* and head-men of villages; responsible for the immediate communication to the officers of the nearest police station of any intended sacrifice of the nature above described, you are consequently directed to report to the magistrate any omission, or unnecessary delay on their part, in furnishing you with the promptest information on the subject.

2. On the receipt of information of an intended Suttee, you will proceed to the spot without delay, unless there be special cause to prevent your going personally: in which event you will immediately depute your *mohurur* or *jemadar*. You will also immediately report to the magistrate the cause which may have prevented your going in person, and in any instance in which the sacrifice may have commenced, or have been completed, prior to

* All the Circulars and Resolutions connected with Suttees have in consequence of this order been omitted in the present edition.

the arrival of the police, a minute report of the circumstances which may have operated to prevent their early arrival must be submitted to the magistrate.

3 In giving effect to the second clause of the third Section, you are directed to employ every means of dissuasion and remonstrance, to endeavour to associate with yourself any respectable Hindoos in persuading the parties concerned to desist from the sacrifice, and you will use all patience and forbearance in the exercise of the duty prescribed.

4. You are required to use all care and discretion in giving effect to these orders, and you will, in each case, be held bound to shew that every means of mildness was resorted to, before recourse was had to any exercise of authority.

5. You will, in no case, use any duress towards any persons apprehended under these rules, but will treat them with every indulgence, and, in sending them in to the magistrate, will allow them every facility not inconsistent with their safe custody.

No. 45.

To the Several Magistrates and Joint Magistrates.

January 8, 1830.

An instance having come to the knowledge of the Court, in which a *sudder ammeen* who took the examination of a prisoner, subsequently, in his capacity of Law Officer, delivered a *futwa* in the case of the same prisoner; and the Court deeming it highly objectionable that these incompatible duties should be performed by the same individual, I am directed to desire that you will peremptorily prohibit the Moulovee *sudder ammeen*, and all other *sudder ammeens* attached to your Court, from taking the deposition of a prisoner, in any case which he may not be competent finally to dispose of, and which may not have been sent to him for decision, without reference to any superior authority.*

No 47.

To the Several Magistrates and Joint Magistrates.

February 19, 1830.

I am desired by the Court of Nizamut Adawlut, to forward to you the accompanying extract (paragraph 93) from a letter, dated the 15th of December last, from Mr. C. Smith, reporting the conclusion of the 1st Sessions of 1828, for the *zillahs* comprised within the then exisiting limits of the division.

* See No. 236 of this Part.

2. You are directed to be particularly cautious to avoid the objectionable practice alluded to in the extract in question.

Extract of a Letter from the late fourth Judge of the Dacca Court of Circuit, addressed to the Register of the Nizamut Adawlut, under date the 15*th December*, 1829.

PAR. 93. I think it necessary to call the attention of the Court to the very objectionable practice prevailing in the *zillahs* and city of keeping prisoners in the *nazir's* house for many days, nay, in some instances, for months, until security be furnished; as I am not aware that it is recognized by any rule or order, and finding the judges on each circuit prohibiting the same, either by letter or *roobukarry* to the magistrate, without much attention being paid thereto, I submit the propriety of a general order being issued to those officers, requiring them to adhere strictly to any injunctions they may receive on that subject. I am perfectly aware that those persons, who are sent in with a *chelan* or dispatch from the *thannas*, are necessarily put under the *nazir*, until orders are passed upon the report which usually accompanies; but this is a business which does not occupy more than the following morning, or at most a day or two.

No. 48.

To the Several Magistrates and Joint Magistrates.

February 26, 1836.

I AM desired by the Court of Nizamut Adawlut, to forward to you, for your information and guidance, the accompanying extract (paragraph 7) of a letter written by their order, on this date, to the Secretary to Government in the Judicial Department, containing their construction of Section 5, Regulation IX. 1793, and Section 5, Regulation VI. 1803

Extract of a Letter from the Register of the Court of Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated 26*th February*, 1830.

PAR. 7. In Section 5, Regulation IX. 1793, and Section 5, Regulation VI. 1803, it is declared, " if it appears to a magistrate that the crime charged was actually committed, and that " there are grounds for suspecting the prisoner to have been concerned in the perpetration of it," the magistrate shall commit for trial. The wording of the enactment admits of some latitude of construction, and is calculated to produce considerable inconvenience, by leaving undefined the degree of evidence sufficient to put the prisoner on his trial. Instead of the words, " and that there are grounds for suspecting the prisoner to have been concerned, &c.'

the following might, in the Court's opinion, with advantage have been substituted; "and that there are probable grounds of convicting the prisoner of having been concerned, &c." But the Court do not deem it necessary that any new legislative provision should be enacted, as they consider a liberal construction of the existing rules to be sufficient. A circular letter will, this day be issued for the information and guidance of the several Commissioners of circuit and magistrates, containing the Court's construction of the rule in question, and other instructions, a copy of which will be submitted, in due course, for the information of Government. The Court agree in the opinion expressed by Mr. Jackson, that the testimony of a single witness, if there be no apparent reason to discredit it, is sufficient for commitment. But, at the same time, it is incumbent on a magistrate, previous to putting a prisoner on trial, on solitary testimony of this description, to satisfy his own mind as to the credibility of the witness, by taking evidence to any points, calculated to establish or disprove his testimony, by whomsoever such evidence may be indicated. With reference to the cases adverted to by Mr. Jackson, in the latter part of the 13th paragraph of his letter, in which the prisoners released had been committed on the testimony of a single witness, the Court presume that the witness was not considered entitled to credit, and on this supposition the acquittal of the prisoners may be satisfactorily accounted for*.

No. 49.

To the Several Magistrates and Joint Magistrates.

February 26, 1830.

I AM directed to take this opportunity of acquainting you, that the Court do not deem it necessary, that more than two witnesses to a *soorut'hal* should be bound over to give evidence before the Commissioner of circuit; it being always optional with him to summon the other individuals who may have witnessed it, in the event of his finding that their presence at the trial is indispensable.

No. 50.

To the Several Magistrates and Joint Magistrates.

February 26, 1830.

I AM desired by the Court of Nizamut Adawlut to forward to you, for your information and guidance, the accompanying extracts from a letter to my address, (paragraphs 63, 65, 66, 67, and 68,) from the late officiating Commissioner of circuit for the tenth division,

* See Regulation VIII. 1830.

together with copy of paragraphs 20 and 22 of a letter this day written, by order of the Court, to the Secretary to Government in the Judicial Department.

Extract of a letter from the late officiating Commissioner of Circuit of the 10th Division, to the Register of the Nizamut Adawlut, dated the 31st October, 1829.

Par. 63. I beg leave to recommend, that the magistrates be directed to report to the Commissioners of circuit monthly, all decisions passed by them under Regulation VIII. 1828, in the same manner, that sentences under Regulation XII. of 1818 and VI. of 1829, are now accounted for.

65. In these times, when idlers are no longer tolerated, and where all the civil functionaries of Government are tasked to the utmost of their abilities and physical powers, it has appeared to me inconsistent with the due despatch of business unattended with arrears, that so many holidays should be allowed in the public offices. In all parts of the country, I calculate, they usurp more than four months in each year, and in Benares upwards of six. This however, the least of the evils experienced by these nuisances. The *amlah* and people concerned in the Courts are generally of a dissipated nature, and seldom recover from the effects of a holiday and become fit for business, for a day or two afterwards: arrears of business therefore unavoidably accrue.

66. It is no doubt necessary to have due regard to the religious ceremonies of the natives, and some holidays are therefore indispensably necessary; but I am convinced many more than requisite are at present demanded and granted.

67. To remedy this evil, I would recommend that the Court should, previous to the commencement of every year, issue instructions, pointing out what holidays will be permitted for the ensuing year, and prohibiting all others, in the most peremptory manner, from being granted under any pretext whatsoever.

68. I am aware, that the Court have declared that certain holidays shall be held, but the orders alluded to are not sufficiently defined, and allow of too much time to be lost to the service of the state.

Extract of a Letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 26th February, 1830.

Par. 20. The Court are not aware of any objection to the proposal herein contained, [in the 63rd paragraph of the acting Commissioner's letter,] and the several magistrates will accordingly be directed to submit to the Commissioners of circuit monthly reports of all cases decided by them under Regulation VIII. 1828.

PAR. 22. The holidays to be observed in the *mofussil* courts were long since definitely fixed by a circular letter issued by the Court. As it appears however, that those orders have been neglected or forgotten, the attention of the magistrates, and other judicial officers, will be called to the subject, and they will be required to be careful that no more holidays be allowed than those specified in the Court's circular letter, dated the 6th of April, 1816, which are indispensable under the obligation of religious observances.*

No. 53.

To the Several Magistrates and Joint Magistrates.

April 23, 1830.

I AM directed by the Court of Nizamut Adawlut to forward to you the accompanying sketch of a drop† for the execution of malefactors.

2. You are requested to order one to be constructed after this pattern, with as little delay as possible, and to be careful that it be in future employed on the occasion of every execution that may take place within your jurisdiction. Its construction and use must be clearly explained to the officers of the criminal Court, lest any misapprehension should be the cause of unnecessary and protracted suffering.

3. The Court of Nizamut Adawlut are further desirous to impress you with the necessity of most strictly prohibiting the practice of hamstringing the criminals, whether before or after execution, which practice seems to have prevailed in many parts of the country; you will be careful that any other practices be abstained from, which may tend to diminish the solemnity of the proceeding, and the awe, which it is the primary object of the punishment to create in the minds of all who may witness it.

No. 54.

To the Commissioners of Circuit.

July 16, 1830.

THE Court of Nizamut Adawlut having had occasion to observe, that much difference prevails in the mode of conducting criminal

* See No. 141 of this Part and No. 8, Part III.

† This sketch has been omitted as it is presumed the Drop has been generally adopted, and its uses are well known.

investigations, both as regards the proceedings of the commissioners, and those of the magistrates: and deeming it highly desirable that the greatest possible uniformity should obtain in points of form and practice, direct me to communicate to you, for your information and guidance, the following remarks and orders, and to request that you will forward a copy thereof to the several magistrates and joint magistrates in your division, with instructions to conform to such parts, as relate to their own proceedings.(*a*)

2. The proceedings on all criminal trials, to be written in a clear legible hand, on paper of the same dimensions as the accompanying sheet,(*b*) or as nearly that size as may be procurable: a numerical list of the papers, corresponding with the marginal notes of the record, to be prefixed, and the whole closed, by adding an extract from the magistrate's Persian calendar relating to the case. The *nuthee*, or bundle of papers composing the trial, to be firmly connected by a string or tape, passed through the papers on the right hand side towards the top, the ends thereof to be united with wax, and the seal of the Court to be impressed thereon.

3. The papers forming the record of trial to be entered thereon, in the same order as the proceedings are held, a marginal note being made on each separate paper, descriptive of its nature, and corresponding with the numerical list abovementioned. The record to be headed,(*c*) *mutatis mutandis*, as set forth in the enclosed form,(*d*) including a transcript in English and Persian of the charge on which the accused may be put on his trial, as directed in the final order of commitment.

4. In cases of murder, wounding, or other personal injury, a description of the weapon, or other instrument, said to have been used in the perpetration of the act, should be here recorded; including, where such particulars may be at all available to fix the intent of the prisoner, the length of the instrument, its general form if not one in common use, its thickness, and weight.

5. In cases of robbery or theft, a description should be entered of any articles laid before the Court, as forming part of the plundered or stolen property; specifying the number attached to each article, and where, and under what circumstances, it may have been found.

a The particular attention of Commissioners and Session Judges has been called to this Circular, See No. 100 of this Part.

b The original was written in country Paper 12½ by 9½ inches.

c See No. 108 of this Part, also Appendix.

d See Appendix for the Form.

6. Then will follow, the prosecutor's deposition, the prisoner's plea of "guilty" or "not guilty" to the charge,(*e*) (which should always be explicitly stated to him in the words prefixed to the record,) and then the evidence on the part of the prosecution, in the course of which, if any papers borne on the magistrate's proceedings should form part of the proof, as written confessions, inquests declaration of a dying person, and the like, such papers should be entered on the record of trial in original,(*f*) and evidence taken thereto ; attested copies of them being substituted in their stead and the magistrates proceedings. Translations in Persian should also be made and annexed to the originals, where the latter may be in any other language.(*g*)

7. In cases of murder, or wounding, endangering life, when the body, or wound, may have been inspected by the civil surgeon, (as it should be in all practicable cases,) the deposition of the surgeon should be invariably taken on oath, instead of merely requiring, as is too frequently the practice at present, a written, report, addressed to the magistrate, or judge holding the trial :(*h*) and it may be here observed, generally, that no report or paper should be placed on the record, or referred to in *proof* of the charge, unless the same be established by evidence.

8. The prisoner will then be put on his defence,(*i*) and evidence examined on his behalf. After which, the *futwa* of the law officer, (which should always bear his seal, signature, and official designation,) being called for and taken, the judge will record his opinion, and such sentence or order as the case may require.

9. In trials referred to the Nizamut Adawlut, the letter accompanying the reference, should commence in this form, "I transmit herewith, to be laid before the Nizamut Adawlut, the proceedings on the trial noted in the margin, held at the station of ——— on the ———.

e See Nos. 129 and 135 of this Part.

f Sec. No. 84 of this Part explaining, that in all trials referred to, or called for, by, the Court of Nizamut Adawlut, the original documents here alluded to, are to be transferred from the original record of the proceedings of the commissioner on the trial, to the copy submitted to the Nizamut Adawlut, copies thereof being placed on the original record.

g Translations are now dispensed with, See No. 26 Para. 3, Part III. and No. 94 Ibid.

h For a special reason for taking the Surgeon's deposition on oath, see No. 42 Part III.

i See No. 129 of this Part.

10. The marginal note should contain the particulars, and be entered according to the form annexed. (*j*)

11. The body of the letter of reference should contain a brief recapitulation of the circumstances stated by the prosecutor, of the evidence adduced in support of the charge, and of the defence. The letter should conclude by stating the Commissioner's concurrence with, or dissent from, the *futwa*; together with a distinct expression of the commissioner's opinion as to the guilt or innocence of the prisoner; and if the former, the specific crime which, in his judgment, has been established against the prisoner.(*k*)

Court of Commissioner of Circuit for the——

Division.

Zillah——

Trial, No.——of the Calendar for the——sessions of 183—.

Government, ...Prosecutor.

versus

1. *Bindrabun Das*, aged 36 years, son of *Heeranund*.
2. *Hurdyal*, aged 50 years, son of *Govind Pershad*.

} Prisoners.

Charge, ...*Murder*.

Futwa, *Kissas*, *Seasut*, as the case may be.

12. The Court deem it scarcely necessary to add, as an important part of your duty in holding a criminal trial, that you should carefully notice and record on your proceedings, any contradiction in the testimony of the witnesses, either in their evidence on the trial, or as compared with their former depositions before the magistrate. You will also consider it your duty to bring to the notice of the Court, any irregularities which may have marked the conduct of the proceedings in the preliminary investigation, whether of the magistrate or his police officers.

13. With regard to the magistrate's proceedings, the Court desire me to communicate to you their opinion as to the proper construction which should be put upon Section 5. Regulation IX. 1793, and the corresponding enactments.(*l*) The rule in question should be understood, as empowering the magistrate to exercise a sound discretion, and not as intending to require commitment on bare suspicion, where the evidence does not afford probable ground for conviction on trial. If conviction appear improbable, the Court observe, the commitment would not only be useless, unnecessarily harassing to the accused and the witnesses in the case, but objec-

j See No. 135 of this Part, paragraphs 3 and 4 also 148 Ibid.

k The Session Judges in the lower Provinces are also to state what punishment they consider adequate to the offence. See Nos. 22, 41, and 130 Part III. In the Western Provinces this is dispensed with, See No. 153 Ibid.

l Section 5. Regulation IX. 1793, was extended to Benares by Section 4, Regulation XVI. 1795. The corresponding rules for the Ceded Provinces are contained in Section 5, Regulation V. 1803, and were extended to the Conquered Provinces by Section 10, Regulation VIII. 1805.

tionable, as precluding conviction and punishment on evidence which might be subsequently obtained.(*m*)

14. Entertaining this view, the Court desire that you will instruct the magistrates within your division, that they should consider it their duty to summon and examine, before commitment, every witness whose evidence may be indicated as material to elucidate the true facts of the case, and not confine themselves, as is frequently the practice at present, to taking such evidence only as they may think legally sufficient to form ground for commitment.

15. The Court have, in many instances, found reason to be dissatisfied with the loose manner in which the magistrates prepare their charges, in cases committed for trial; so much so, that it has been sometimes difficult to ascertain, with precision, the offence for which the prisoner has been put on his trial.(*n*)

16. With a view to remedy this evil, the Court desire that the magistrates will carefully record, at the conclusion of the *roobukaree* containing the order of commitment, the precise charge on which they commit the prisoner; and that such charge be entered in English and Persian, on a separate paper annexed to the said *roobukaree*, bearing the magistrate's official signature at full length, and the date of commitment. The magistrate should be directed to take especial care that the proper Persian word is used to designate the offence charged. Thus, in a charge of murder, the Persian term used should be "*Kutl-umd:*" and in a charge of manslaughter, the term "*Kutl-shibeh-umd:*" and where there is any doubt as to whether the accused is guilty of a higher or lower grade of an offence of the same character, the commitment should be made for the higher grade. Thus, if it be doubtful, from the evidence before a magistrate, whether the offence amounts to murder, or only to culpable homicide, the commitment should be for murder (*o*) On the other hand, where a doubt exists as to whether a commitment should be made for knowingly receiving plundered property, or for the actual robbery, the prisoner should be committed on both counts.(*p*)

17. The reason of this caution, I am desired to add, is, that, in the former case, a conviction of a minor offence may be had on a commitment for a graver offence of the same character, but that the converse of the proposition does not hold good. In the latter case you will observe, that the acts, for which the prisoner is to be tried, are distinct, and of a separate character.

m See Regulation VIII. 1830.

n The especial attention of Commissioners and Session Judges has been directed to this and the two following paragraphs and how they were to proceed defined. See No. 135 of this Part.

o See Nos. 185 and 200 of this Part.

p *In all cases* where stolen or plundered property may have been found, a Second Count is to be inserted charging the Prisoner with knowingly receiving plundered or stolen property (as the case may be) See No. 98 of this Part,

18. In the event of a commitment being made under special instructions of the commissioner, either of his own authority, as in cases of perjury, or in modification of the original order of commitment by the magistrate;(q) or in cases of commitment for forgery and perjury by order of a *zillah* judge, or other authority empowered to commit in such cases, the same should be noticed on the proceedings.

19. The Court direct me to add, with reference to the power vested in the Commissioners of circuit of annulling a magistrate's commitment, that such power should be exercised with great caution, and a report thereof be submitted in each instance for the information of this Court.(r)

20. The Court having also had many late occasions to observe, that their circular orders specially requiring that the examinations of all prisoners be made in the presence of the magistrate, are not sufficiently attended to, I am directed to desire that you will call on the magistrates in your division to conform themselves strictly to those orders; and in no case to certify,(s) or otherwise to authenticate, any paper, purporting to be a confession, which may not have been made on a personal examination by the magistrate himself. And more effectually to provide against the objectionable course which has frequently obtained of late of allowing the examination of prisoners to be taken in the *serishta*, in the magistrate's absence, you are desired to instruct the magistrates, in all cases of confessions before them, to certify the same in the following words, "I hereby certify, that this confession of——— was made by the said ———, and taken down in writing, and attested by the subscribing witnesses, before me, and in my presence, on the ———between the hours of———; that, to the best of my belief, the confession was voluntary, and that no interference, directly or indirectly, on the part of any person likely to influence or intimidate the prisoner, was permitted."

21. The Court further desire that the magistrates be instructed to direct their police officers to certify confessions made before them in the same manner.

22. On all trials held by you, you are desired, in examining subscribing witnesses to confessions, to be particular in ascertaining from them that there has been no deviation from these rules, and in case of omission by a police officer, that you take suitable notice thereof, and that you report any transgressions in this respect on the part of a magistrate to the Nizamut Adawlut.

q A Session Judge cannot direct a Magistrate when he has committed a Prisoner for a minor offence to alter the same to a graver. See letter to the Session Judge of Rajshahye dated 3d November 1843 in the Appendix.

r See No. 111 of this Part.

s For how Magistrates are to certify Examinations and deposition. See No. 220 of this Part, paragraph 6.

23. I am also directed to desire, that in all cases of trials held in any way out of the ordinary course of law, you will record on the proceedings of the trial the original documents authorizing the course adopted, (substituting attested copies in their place in the magistrate's *nuthee*, if they should have been taken therefrom,) and that you invariably notice the same in your letter accompanying the proceedings on the trial, if referred to the Nizamut Adawlut.

24. I am, in conclusion, directed to observe that many delays have lately been experienced in the transmission of trials under reference to this Court; that no valid excuse can possibly exist for the necessary procrastination of their dispatch; and that the Court expect that you will so regulate your own time, and that of your officers, that no cause of dissatisfaction on this score occur hereafter.(*t*)

25. You will be pleased to report to the Court the date on which you may receive these instructions, and will require a similar report from the several magistrates and joint magistrates, in your division.

No. 55.

To the Magistrates and Joint Magistrates.

July 23, 1830.

The Court of Nizamut Adawlut having reason to believe, that the rules prescribed in Section 16, Regulation XX. of 1817, for the search of plundered property, are not sufficiently attended to by the Police officers, direct me to call your particular attention to the subject, and to desire that you will take proper notice of any instances in which the Police *darogahs* and other officers shall deviate from the rules laid down for their guidance, in the abovementioned section.

No. 61.

To the Commissioners of Circuit.

October 1, 1830.

I am directed by the Court of Nizamut Adawlut to forward to you, for your information and future guidance, the accompanying copy of a letter from the Secretary to Government in the Judicial Department, under date 21st ultimo, regarding the allowance to be

t See No. 135 of this Part Paragraph 6. In all cases *called for*, by letter or precept, an extract from the English Statements, containing whatever information was given in them relative to the case, is to be placed with the Nuthee. (See Nos. 110 and 149 of this Part,) and in all cases, *referred* or *called for*, a Copy of the English calendar (See No. 188 Part III.) This entails extra trouble in the English Office and tends to cause delay.

made to individuals officiating as law officers to the Courts of Circuit.*

Copy of a letter from the Secretary to Government in the Judicial Department, to the Officiating Register of the Nizamut Adawlut, under date the 21st September, 1830.

I am directed to acknowledge the receipt of your letter, dated the 3rd instant, submitting copy of a letter from the Commissioner of circuit for the 14th division, with a translation of a petition from Moluvee Fuzl-ool-Ruhman, for remuneration, while officiating as law officer during the Moorshedabad sessions, and requesting the orders of Government with regard to the remuneration to be allowed in such cases.

2. In reply, I am directed to observe, that, as a general rule, persons officiating as law officers under the provisions of Regulation IV. 1830, if not holding any other office under Government, should be entitled to receive the same pay as the Mahomedan law officers of the *zillah* and city Courts, viz. 100 Rupees per mensem, during the time they may be employed on the sessions.

3. The Commissioner of circuit should charge the pay of the officiating officer in the contingent bill of his office, submitting to the civil auditor the orders of Government, or of the Nizamut Adawlut, as his authority for the charge.

No. 63.

To the Several Magistrates and Joint Magistrates.

December 3, 1830.

I AM directed by the Court of Nizamut Adawlut, to transmit to you, for your information and guidance, accompanying extracts; from a letter (paragraph 3) this day addressed to the Secretary to Government in the Judicial Department, on the general circuit report of the Commissioner of circuit for the 15th (Dacca) division, for the second sessions of 1829, relating to the measures to be adopted in cases of actual or expected affrays; and from a letter (paragraphs 6 and 7) from the magistrate of the city of Dacca, shewing the measures adopted by him, to prevent the unnecessary summoning of persons charged with trivial offences.

Extract of a letter from the Officiating Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, under date the 3rd December, 1830.

PAR. 3. It is obvious, that affrays of the nature alluded to by the Commissioner may occur, which the proprietors, though not

* See Nos. 106 and 120 of this Part.

present, instigated or connived at; but mere suspicion of instigation or connivance cannot warrant the infliction of punishment. The Court are of opinion that the rules laid down by their circular orders of the 14th April, 1809,* for the conduct of the magistrates in cases of actual or expected affrays are calculated to check the prevalence of this description of crime. They will therefore call the attention of the magistrates to that circular order, and enjoin them strictly to conform to its provisions.

Extract of a letter from the Magistrate of the City of Dacca, to the Commissioner of Circuit of the 15th Division, under date the 28th May, 1830.

PAR. 6. With reference to the 6th paragraph of your letter, I have the honor to forward copy of a *roobukary,* held on the 14th July, 1829, containing instructions issued to the assistants and sudder ameens attached to this Court? requiring the former to embody in a proceeding the proof adduced against the accused previous to issuing a summons for their attendance, and directing the latter to abstain from summoning the accused, till they have submitted to me the original depositions of the witnesses, with the substance of their evidence embodied in a *roobukary.* It is to this measure, which effectually prevents any person being dragged into the sudder station without good and sufficient grounds, that I chiefly attribute the decrease which has taken place in the number of persons apprehended during the period adverted to in your letter. A careful investigation of the registers of cases decided by the assistants and sudder ameens at once pointed out the seat of the disease; and the remedy, there was no difficulty in applying.

PAR. 7. I have little doubt that the observance of the same precautions, added to positive injunctions to the police darogahs on the subject, which have also been attended with good effect in this district, would be found equally successful in other jurisdictions.

No. 66.

To the Commissioners of Circuit, Magistrates and Joint Magistrates.

December 10, 1830.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information and guidance, the accompanying extract from the proceedings of the Court, of this date, declaratory of the right of Zemindars, and other proprietors of land, to establish *hauts* or fairs on their own lands.

* See No. 50, Part I.

Extract from the proceedings of the Nizamut Adawlut of the 10th December, 1830.

The Court decided on an appeal from an order of the Commissioner of Circuit of the 15th Division, that Zemindars and other proprietors of land have a right to establish *hauts* or fairs on their own lands, and to hold them on any day that they think proper; and that it is not competent to the magistrates to prohibit the establishment of a *haut* or fair, or to fix the day on which it may be held, on the plea of its interfering with the right of a neighbouring *haut*-holder, or on any other ground.

No. 67.

To the Commissioners of Circuit.

December 17, 1830.

I am directed by the Court of Nizamut Adawlut to transmit to you the accompanying extract, paragraph 40, from a letter of the Honorable the Court of Directors, dated the 14th April last, and to desire that you will invariably insert in the warrants, you may hereafter issue, the period of imprisonment to which the prisoners thereby affected may be sentenced, in *words*, as well as in *figures*; at the same time, noticing on the margin of the warrant, the prisoner's name, and the period of imprisonment in figures.

2. I am also directed to transmit to you the accompanying copy of a Circular Letter, this day addressed to the several magistrates and joint magistrates, and to desire that on the receipt of a report of the nature alluded to in the 1st paragraph thereof, you will forward the same to this Court, with your sentiments on each case, as to the necessity which may, in your opinion, have existed for resorting to the measure of calling in the aid of a military force.

Extract of a letter from the Hon'ble the Court of Directors, dated the 14th April, 1830.

Par. 40. We regret that you have not informed us of the result of the inquiry ordered by the Nizamut Adawlut, with a view to ascertain whether any blame attached to the magistrates of Benares, or to the jailor, on the occasion referred to. This is not the first instance we have seen of carelessness in your magistrates, or their native officers, in detaining men in prison beyond the term of their sentence. But the chief blame is to be laid to the Nizamut Adawlut, whose duty it is to take care that such arrangements should be made as to render a mistake of this sort very unlikely to occur. When they stated to you that, considering all things, it was a matter of surprise that these occurrences did not happen more

frequently, rather than that they happened at all, you should have pointed out to them that it was their duty to adopt proper measures to prevent them. We remark that that most obvious precaution of writing the period of the sentence in words, as well as in figures, and noticing the time in figures with the name of the prisoner, in the margin of the warrant, was unaccountably neglected. We are happy to learn that you paid the man who was illegally detained in prison 100 Rupees by way of compensation.

No. 68.

To the Magistrates and Joint Magistrates.

December 17, 1830.

In pursuance of the orders of the Honorable the Court of Directors and of Government, I am directed by the Court of Nizamut Adawlut to desire, that on all occasions when you may find it necessary to call for the assistance of the military, to preserve the peace of your district, you will immediately make a full and distinct report of all the circumstances of the case, for the information of the Court and of Government. This report you will be pleased to submit through the Commissioner of circuit, that he may forward it to this Court with his own sentiments in each case.*

2. I am further directed to transmit to you, for your information and future guidance, the accompanying extract, paragraphs 41, 42 and 43, from a letter of the Honorable the Court of Directors, dated the 14th April 1830, on the subject of the precautions to be adopted to prevent the jails from being over-crowded.

Extract of a letter from the Hon'ble the Court of Directors, dated the 14th April, 1830.

Par. 41. The orders issued by the Nizamut Adawlut on this occasion, appear to us to have been perfectly proper, and we entirely approve the Circular Letter†, which you directed to be written to the magistrates, authorizing and enjoining them, whenever the number of prisoners may be greater than can be conveniently accommodated in the proper jail, to hire, without previous application to Government, any suitable buildings which may be procurable, or to accommodate a portion of the prisoners in tents or boats, or to incur such expense, as may be necessary to provide, in any other manner, for the temporary shelter and safe custody of the prisoners

* In addition to the report to Government the magistrate is to report to the Sessions judge and superintendent of Police to whom this rule is extended. See No. 7, Part III, paragraph 4.

† See No. 285, Part I.

42. Other instances, similar to that now before us, having come to our notice, we desire you will apprise the magistrates, through the Nizamut Adawlut, that they have engaged our particular attention.

43. A magistrate cannot be justified in crowding together a greater number of prisoners than the place of confinement will conveniently hold. His duty, in regard to prisoners in his charge, is to detain them in custody according to law, under the sentences of the Courts, or (in cases of persons not sentenced) under such discretion as is vested in him by the regulations. Every pain he inflicts on those persons, beyond that which is required by law, is illegal punishment. A magistrate, who, by crowding men together in prisons, till he inflicts diseases and death on them, will not be exculpated by pleading unhealthy seasons, pressure of business, great numbers of prisoners under his charge, delay in correspondence, or any of those excuses which are usually resorted to on such occasions, and perhaps accompanied by assertions of kind feelings for the prisoners, and some testimonial of humanity and attention in the care of the jails.

No. 79.

To the Commissioners of Circuit.

March 25, 1831.

I AM directed by the Court of Nizamut Adawlut to transmit to you for your information, the accompanying copies of a letter from the Deputy Secretary to Government, Judicial Department, dated 8th instant, and its enclosure, a letter from the Deputy Secretary to Government, in the Territorial Department, to the Sudder Board of Revenue, dated 29th May 1829, fixing the rate of allowance for travelling charges to be paid to the law officers and ministerial officers of the Courts of the Commissioners of circuit when actually on circuit.*

Copy of a letter from the Deputy Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut, dated 8th March 1831.

I am directed to acknowledge the receipt of your letter, dated the 14th of January, with its enclosures, and in reply to desire you will inform the Court of Nizamut Adawlut, that the orders of September 25th, 1828 have been superseded by subsequent orders in the Territorial Department, under date May 29th, 1829, a copy of which is herewith enclosed. The deputation allowance to

* See Nos. 106 and 120 of this Part.

mooftees, as well as to other officers attached to the Commissioners of circuit, will of course be regulated according to the scale therein prescribed.

Copy of a letter from the Deputy Secretary to Government in the Territorial Department, to the Sudder Board of Revenue, dated 29th May 1829.

I am directed to acknowledge the receipt of your letter, dated 12th instant, with its enclosure, and to inform you, that in modification of the orders contained in the 37th paragraph of the resolution of Government, dated 30th December last, the Governor General in Council resolves, that the payment of travelling allowance to the native officers and Christian writers on the establishments of the Commissoners of revenue and circuit shall be regulated according to the scale fixed in the margin.*

2. The allowance in question is of course to be drawn for such periods only as the commissioners may be actually on circuit, and by such of the writers as he may absolutely require to accompany him, the bills being countersigned by the Commissioner.

NATIVE OFFICE.

* Where the Salary does not exceed,	10	Rs.	2	As.	per diem.
Ditto ditto, ...	25	,,	4	,,	ditto.
Ditto ditto, ...	40	,,	6	,,	ditto.
Ditto ditto, ...	60	,,	8	,,	ditto.
Ditto ditto, ...	80	,,	12	,,	ditto.
Ditto ditto, ...	100	,,	1	R.	ditto.

ENGLISH OFFICE.

Ditto ditto, ...	60	,,	12	As.	ditto.
Ditto ditto, ...	100	,,	1	R.	ditto.
Ditto ditto, ...	200	,,	2	R.	ditto.
Above 200 Rs.			3	R.	ditto.

No. 82.

To the Magistrates and Joint Magistrates.

May 13, 1831.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information and future guidance, the accompanying extract (paragraphs 5 and 11) from a letter this day addressed to the Deputy Secretary to Government in the Judicial Department, by their order.

Extract of a letter from the Register of the Nizamut Adawlut, to the Deputy Secretary to Government in the Judicial Department, under date the 13*th May*, 1831.

PAR. 5. The Court observe, that it is already provided by the rules for the management and control of the native Insane Hospi-

tals, (paragraph 9,) circulated with Mr. Secretary Bayley's letter of the 23d October, 1818, that in the event of an insane person sent to the hospital having been attended by the medical officer attached to the *zillah* station, the latter shall furnish a statement of the history and progress of his derangement, for the information and guidance of the surgeon in charge of the hospital. They are however of opinion with the commissioner, that this statement should be furnished in duplicate; and they will direct this in future accordingly.

11. The Court approve of the suggestion of the Commissioner that the prisoners confined pending the investigation of their cases, and the Dewanny prisoners, should be entered separately in the monthly statements of deaths, and will issue the necessary instructions to magistrates.

No. 84.

To the Commissioners of Circuit.

June 3, 1831.

Some of the Commissioners of circuit having misunderstood the 6th paragraph of the Circular Orders of the 16th July 1830,* which was not intended to alter the practice which had before invariably obtained of filing with the record of trials submitted to the Court of Nizamut Adawlut the original confessions of prisoners; the Court deem it necessary to explain, that all original confessions and police reports should be annexed, in the first instance, to the original record of the trial; and that in all cases referred to or called for by the Court, the originals should be transferred to the copy of the record submitted, attested copies being retained on the original record.

No. 85.

To the Magistrates and Joint Magistrates.

July 15, 1831.

The Court of Nizamut Adawlut having reason to believe, that the visits of the police officers in the interior of their jurisdictions, for the purpose of inquiring into the circumstances of accidental fires, are a source of great oppression on the part of the Police officers, and a general subject of complaint among the inhabitants of the villages so visited, desire that you will strictly prohibit the Police officers of your jurisdiction from making any inquiries into

* See No. 54 of this Part.

the circumstances of fires, except when charges of arson may be preferred to them.

No. 87.

To the Commissioners of Circuit.

July 22, 1831.

REPEATED complaints having reached the Governor General of exactions practised in the introduction of the *chowkeedaree* tax, the Court, in pursuance of instructions received from Government, direct me to desire you will prohibit the levy of any tax, either by the magistrates or *darogahs,* on account of the *chowkeedaree* establishments, except at the stations, and in the mode prescribed by Regulation XXII. 1816; unless such establishments, shall have been introduced and maintained with the free will and consent of the inhabitants, the withdrawal of which might endanger the security of their property.*

No. 95.

To the Magistrates and Joint-Magistrates, Lower and Western Provinces.

March 9, 1832.

THE frequent ulceration of the legs of convicts confined in the public jails having been brought to the notice of the Nizamut Adawlut, the Court direct me to transmit to you the following observations and orders for your information and future guidance.

2. The ulceration of the legs is attributed to the friction of the fetters, and is said to be more common among prisoners newly admitted, in consequence of the rings of the fetters placed on them being occasionally foul from rust, than among prisoners who have been long in jail, the rings of whose fetters have become in a measure polished, either by friction caused by the motion of the wearer's limbs in exercise, or the care of the convicts in keeping them clean. It has been suggested, as a precautionary measure, that each convict should be made to wear leather gaiters or *mozehs,* extending a few inches above the ancle, to protect that part of the leg on which the fetter rings are likely to rub.

3. The Court accordingly desire that you will cause every convict in your jail, who is confined in fetters, to wear the *mozehs,* and that you will enjoin their guards to be careful that they do not take them off while out at their work. You will also be pleased to direct your jailor to take care that the rings of the

* See Act XV., 1837.

fetters, placed on newly-admitted convicts, are quite clean, and freed from all asperities arising from dirt or rust, or carelessness in the original construction; and that at the daily inspection of the fetters, required by paragraph 12 of Section IX. of the rules for the management of jails, he enjoin on the convicts the necessity of keeping the rings of them clean, and bring to your notice any instances of their disobeying this order.

4. The substitution of chains for the long iron links now in use, for connecting the rings attached to the legs of the convicts, has been suggested to the Court, as being calculated to allow the prisoners to walk and work with greater ease to themselves than they can do at present, from the inconvenient position they are constrained to adopt in walking and working, and from the continual fretting and friction caused by the oblique position of the straight iron links. It is at the same time doubtful, whether the security of the prisoners might not be diminished by the adoption of chains, as the chains might be sooner cut through, unless the links were made of thickness which would add materially to their weight. The Court authorize you to use your discretion on this point; and direct me to take this opportunity of calling your attention to the rule contained in paragraph 58, Section IX. of the rules above mentioned, restricting the weight of fetters, in ordinary cases, to one and an half seer.

No. 96.

To the Judges and Magistrates, Lower Provinces—to the Commissioners of Circuit, Western Provinces.

March 9 *and* 12, 1832.

I AM directed by the Court to transmit to you, for your information and guidance, the accompanying copy of a letter from the Secretary to the Governor General, to the Judge of Seharunpore, dated the 30th January, 1832, regarding the transfer by the judge to the magistrate of part of his establishment, and the occupation of the *cutcherry*, whenever the offices as judge and magistrate may be separated.*

Copy of a Letter from the Secretary to the Governor General to the Judge of Zillah Seharunpore, dated 30th January, 1832.†

I am directed by the Right Honorable the Governor General

* This Circular has been retained as the offices of Magistrate and Collector are still united in the Western Provinces, and in Cuttack.

† This extract was circulated by the Western Court on the 12th March 1832, to the Commissioners of Circuit, with instructions to communicate it to the judges and magistrates of their divisions, "to whom it must be useful for their information and guidance."

to acknowledge the receipt of your letter, dated the 21st instant, with its enclosure; and in reply, to acquaint you, that in directing you to divest yourself of the magistracy, it was not intended that you should make over your treasurer, or the establishment retained as a guard for your treasury, or your *cutcherry*, to the collector. The individuals retained in the collector's establishment will be amply sufficient for his purposes, even with the addition of the magisterial duties, which will involve little or no additional labour to officers of that description; though a moiety of your personal guard of *burkundazes* may with propriety be transferred to the establishment of the magistrate and collector.

2. With respect to the occupation of the *cutcherry* by the magistrate, I am desired to state, that His Lordship has no objection to allowing this, where the judge may have room to spare, and the magistrate may be desirous of availing himself of the accommodation; though generally speaking His Lordship is of opinion that a part of the *cutcherry* allotted to the collectors for the performance of revenue business will be found to be sufficient for the transaction of the magisterial duties.

No. 97.

To the Commissioners of Circuit, Western Provinces.

March 12, 1832.

I AM directed by the Court to forward to you the annexed copy of a letter from the Deputy Secretary to Government, Judicial Department, communicating the sentiments of his Honor the Vice President in Council regarding that part of the circular order of 8th November, 1806,* which directs magistrates to apply to this Court for permission to leave the sudder station of their district.

2. The Court desire me to inform you, that they have adopted the suggestion therein contained; and you are requested to forward copies of my present letter, with its enclosure, to the magistrates of your division, for their information and guidance. In the exercise of the power hereby vested in you, it is expected by the Court that care will be taken to avoid interference with the transactions of business in the civil courts, where the offices of judge and magistrate are held by the same individual.†

Copy of Letter from the Deputy Secretary to Government, in the Judicial Department, to the Register of the Nizamut Adawlut for the Western Provinces, dated 31*st January*, 1832.

You are requested to bring to the notice of the Nizamut Adawlut the inconvenience which, under existing circumstances, results

* See No 43, Part I.

† This Circular refers to the Western Provinces only, as regards the Lower, see Nos. 7 and 10, Part III.

from a strict observance of that part of their circular order of November 8th, 1806, which directs that magistrates should apply to them for permission to visit particular parts of their district.

2. The magistracy being now generally severed from the judgeship and united with the collectorship, the same reasons no longer exist for requiring a reference to the superior Court in such instances. At the same time, local officers now exist, who exercise superintendence over the proceedings both of the magistrate and collector, and who are well able to appreciate the motives which render the presence of the European functionary in the interior necessary or expedient.

3. His Honor in Council would therefore suggest to the Court the propriety of annulling that part of the order in question, and of informing the local commissioners that they are now vested with authority to permit any of the officers subordinate to them to proceed in the interior of the district, whenever such a measure may appear conducive to the public interests.

No. 98.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

March 23, 1832.

The Court of Nizamut Adawlut having had occasion to observe, that prisoners tried before the commissioners of circuit are not unfrequently convicted of receiving or possessing plundered or stolen property, although only committed to be tried for the crime of *dacoity*, highway robbery, burglary or theft; direct me to call your attention to the 15th, 16th, 17th, and 18th paragraphs of the circular instructions under date the 16th July, 1830;* and to desire that in future when a prisoner is brought before you for trial, whose commitment has not been made in conformity with the instructions cited, you will cause the magistrate to amend it, before proceeding to try the prisoner.

2. For the better attainment of the object in view, the Court further desire that you specially instruct the magistrates and joint-magistrates of your division, *in all cases* wherein *stolen* or *plundered* property may have been found in possession of prisoners committed to take their trial for *theft* or *robbery*, to insert a *second count* in the commitment, charging them also with the offence of knowingly receiving the plundered or stolen property, as the case may be.

* No. 54 of this Part.

No. 100.

To the Commissioners of Circuit and Session Judges.

April 13, 1832.

THE Court having several times found occasion to remark the extreme inattention to the circular order of the 16th July, 1830,* which is apparent in the references of criminal trials by several of the commissioners of circuit and session judges in the districts within their jurisdiction; such inattention, by rendering it necessary to return the proceedings for revision and amendment, entailing unnecessary delay and great hardship on the prisoners included in them; I am directed, with a view to prevent the future occurrence of such irregularities, to request your particular attention to the circular order above cited. The additional degree of labor incident to a more careful arrangement of the papers in each case by the ministerial officers of your Courts, is trifling in comparison with the objects contemplated by the circular order in question. It may be added, that as it is found necessary to return the whole proceeding for amendment on the occurrence of these instances of negligence, the labour of the *omlah* of the officer making the reference is only increased by their carelessness in the first instance. You are requested to impress this on the officers of your Courts, and, at the same time, to examine carefully each case previous to submitting it to this Court, noting and correcting any errors, and supplying any omission which may be observable.

No. 102.

To the Commissioners of Circuit, Lower and Western Provinces.

May 11, 1832.

INSTANCES having been brought to the notice of the Court in which witnesses and others in criminal cases have been examined by the native officers of the magistrates' Courts, when neither the magistrate nor his assistant was present; I am directed to request that you will call the attention of the magistrates in your division to the circular order of the Court under date the 12th December, 1809,† and enjoin their strict observance of the rules therein contained; and that you will bring to the notice of the Court any deviation therefrom which you may observe in the course of trials held by you.

* No. 54 of this Part, † No. 58, Part I.

No. 103.

To the Session Judge, Lower and Western Provinces.

May 11, 1832.

INSTANCES having been brought to the notice of the Court in witnesses and others in criminal cases which have been examined by the native officers of the magistrates' courts, when neither the magistrate nor his assistant was present; I am directed to inform you that the attention of the magistrates and joint-magistrates has been called to the circular order of the Court under date the 12th December, 1809,* and a strict observance of the rules therein contained enjoined; and to request that you will bring to the notice of the Court any deviation therefrom which you may observe in the course of trials held by you.

No. 104.

To the Civil and Criminal Courts, Lower and Western Provinces.

May 18, 1832.

THE Court having noticed the very careless manner in which the native names of men and places are occasionally written in English; direct me to call your attention to the subject, and to request that in your letters and statements, you will adhere as closely as possible to the orthography of the original.

No. 106.

To the Commissioners of Circuit in the Western Provinces.

June 8, 1832.

I AM directed by the Court to transmit to you for your information and guidance the accompanying extract from a letter received from the Deputy Secretary to Government in the Judicial Department, under date the 15th ultimo.

Extract of a Letter from the Deputy Secretary to Government, Judicial Department, under date 13th May, 1832.

PAR. 2. With reference to paragraph 2 of your letter, His Honor in Council observes, that it would be more conformable to the scale laid down in the orders of the 8th December, 1829, that the travelling allowance to a law officer should be 2 rupees a day, if his salary exceeds 100, and is not above 200 rupees per mensem.

* No. 58, Part I.

If above 200 rupees per mensem, it should be 3 rupees a day. Instructions will accordingly be given to the civil auditor to pass bills at that rate.*

No. 108.

To the Session Judges, Lower and Western Provinces.

June 28, 1832.

WITH a view to ensure the more speedy trial of cases committed before the session judges and uniformity in the manner of designating the trials, I am directed by the Court to communicate the following observations and orders.

2. Some of the session judges appear to imagine that they are required by Regulation VII. 1831, to hold monthly sessions of jail delivery at stated periods. A main object however of that enactment was to relieve the parties and witnesses from the inconvenience of frequent journeys to and from the sudder station, and lengthened detention when there. It is highly desirable therefore, that you should proceed upon each trial as soon as practicable after the commitment has been made by the magistrate, who will be directed to give you immediate intimation thereof. Circumstances may occur to prevent you from taking up the case immediately, but the Court desire to impress on your mind the importance they attach to this subject, and to request that you will use your utmost endeavours to prevent unnecessary delay. To enable them to judge whether their instructions on this head are duly observed, you are requested to insert in your monthly statements, Nos. 1 and 2, in the column appropriated to "crime charged," the date on which the case was "committed for trial," and that you will explain the cause of any delay which may occur, in the column of remarks.

3. The Court observe that an uniform practice does not exist with regard to the mode of distinguishing trials, and direct me to inform you that each trial should be distinguished in the heading by the month in which it may be held. The magistrates of the districts to which Regulation VII. 1831, has been extended, will be directed to keep separate calendars for each month, entering the trials thereon in regular order. The heading of trials in English and Persian† will therefore be as follows:

"COURT OF THE SESSION JUDGE, OF ZILLA———.

"Trial No. 1 of the sessions for the month of———, 183—

"Case No. 3 of the magistrate's calendar for the month of ———, 183—.

* Extended to the Lower Provinces, see No. 120 of this Part.

† The Persian language having been abolished in the Courts, for the Persian Form (inserted in the Appendix) Urdu or Bengalee should be substituted

4. The monthly statements connected with sessions should, in like manner, be designated by the month in which the trials entered in them were concluded by sentence or postponed.

No. 109.

To the Magistrates of the Districts to which Regulation VII. 1831, *has been extended, Lower and Western Provinces.*

June 22, 1833.

One of the main objects of Regulation VII. 1831, being to prevent the parties and witnesses in criminal trials suffering inconvenience from frequent journeys to and from the sudder station, and lengthened detention when there, the attention of the session judges has been called to the subject, and they have been directed to proceed on the trial of all cases committed as soon after the commitment as practicable: and I am directed by the Court to request, that whenever you may commit a prisoner for trial, you will immediately intimate the same to the session judge, that no unnecessary delay may occur.*

2. I am at the same time directed to request that you will keep separate calendars of commitments for each month, and that you will enter the commitments on them in regular order.

No. 110.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

June 29, 1832.

Much inconvenience having been occasionally experienced by the Court in the revision of proceedings on trials, called for on perusal of the statements furnished at the close of sessions, from the want of any record of the grounds upon which sentence has been passed, (the statements having been often forwarded in the mean time to Government,) the Court direct that in future you will annex to the proceedings of each trial submitted under the above circumstances, an extract from the statements containing whatever information was conveyed in them relative to the case called for. This extract will in fact be a statement in the usual form, including only the particular case which the Court desire to revise. When some prisoner has been punished and others released in the same case, an extract from each of the statements will be required.

2. The same remark applies to the prisoners whose trials may be postponed. †

* See No. 234½ of this Part.

† Extended to cases called for by Precept. See No. 149 of this Part.

No. 111.

To the Session Judges and Commissioners of Circuit, Lower and Western Provinces.

July 20, 1832.

VARIOUS cases having been brought to the notice of the Court, involving the question of the competency of session judges to cancel commitments made by the magistrates of their respective *zillahs ;* the Court have determined that, under the spirit of the regulations in force, judges of sessions are competent to exercise that authority. They are however of opinion that the power should be used with the greatest caution, as required by a former circular order; and an English report detailing the reasons upon which it has been thought necessary to resort to this measure, should be submitted in each case to the Nizamut Adawlut.

2. You are requested to communicate the above construction to the magistrates of your division.*

No. 113.

To the Commissioners of Circuit, Lower and Western Provinces.

July 27, 1832.

I AM directed by the Court to request that, whenever a Christian may be tried by you, you will state distinctly in your jail delivery statements, or if the trial be referred to this Court, in your letter of reference, his parentage and place of birth.

No. 115.

To the Session Judges and Commissioners of Circuit, Lower and Western Provinces.

August 3, 1832.

THE Commissioners of circuit being required by clause 2, Section 13, Regulation VII. 1831, to hold Jail deliveries of the districts within their divisions, whenever, owing to absence, indisposition, or other cause, the session judge may not be able for a period exceeding a month to perform that duty; the Court direct that, whenever a session judge may have been prevented by any of the above causes from holding the sessions of his district for the period of one month, he will communicate the circumstance to the commissioner of the division, with a view to enable that officer to make such arrangement as the emergency may appear to demand.†

* See Part III. No. 53, also Construction of the Nizamut Adawlut, No. 1122.

† The Report is to be made direct to the Nizamut Adawlut, see No. 7, Part III. Paragraph 6.

No. 117.

To the Commissioners of Circuit, Lower and Western Provinces.

August 24, 1832.

As cases have occurred of the escape of convicts under sentence of perpetual imprisonment, who were employed on labor in the *zillahs* pending the receipt of the order for their removal to the Allipore jail; and as it seems probable, with reference to the strength and description of the jail guards used in the *zillahs*, that such escapes will occur, if such convicts continue to be so employed; the Court of Nizamut Adawlut direct that in future convicts under sentence of imprisonment for life in the jail at Allipore shall not be sent to work on the roads while they may remain in the *zillahs*, but shall be kept in strict custody in the jails, of the respective *zillahs*, until they are removed to the place of their ultimate destination.

2. You are requested to communicate this order to the magistrates, and joint-magistrates of your division.

No. 118.

To the Civil and Criminal Courts, Western Provinces.

August 24, 1832.

I AM directed by the Court of sudder dewanny and Nizamut Adawlut, to transmit for your information, the accompanying copy of a letter received from the superintendent of the Government lithographic press, Calcutta, under date the 9th instant.*

Copy of a Letter from the Superintendent of the Government Lithographic Press, Calcutta, dated the 9th August, 1832, *to the Register of the Sudder Dewanny and Nizamut Adawlut, Western Provinces, dated the 9th August,* 1832.

On indenting for lithographic forms the judges of the provincial Court of Bareilly annexed as authority for the application, a letter to their address from you, dated 6th July, 1832, wherein the Court were pleased to direct that the Bareilly court of appeal should charge for them in their contingent bill.

2. I beg distinctly to state, for the information of the Sudder Dewanny and Nizamut Adawlut, and if the Court should see necessary, for the general information of the judicial officers subject to them, that this is exclusively a Government establishment, organized for the sole purpose of aiding the service in the discharge

* Applications for Forms to be made direct to the Superintendent of the Lithographic Press, see No. 235 of this Part and No. 121, Part III.

of official details, and that no charge whatever is made for such forms as are executed here.

3. I have been induced to trouble the Court with this communication from the fact, that a private lithographic press at Cawnpore has been, by mistake of the officers of Government in the neighbourhood, resorted to, under the erroneous idea of its being on a footing similar to this press. This however is quite a mistake, and there is no other establishment besides this which is the property of Government.

4. I have thought it would be satisfactory to the Court to know, that many estimates, shewing the actual expence at which Government execute its own forms, as compared with that incidental to private presses, have been furnished. In that last made, it was shewn that the forms printed here are done often at one-tenth, and never more than one-third, of the rate which private presses charge for the same work.

No. 119.

To the Session Judges, Western Provinces.

Western Provinces, 24*th August*, 1832.

Difficulty having been experienced by the commissioners of circuit for divisions into which Regulation VII. 1831, has been introduced, in preparing the general circuit reports, owing to want of information with regard to the result of the sessions in which the persons charged with offences, committed during the period reviewed in their reports, have been tried; the Court of Nizamut Adawlut for the Western Provinces direct, that in future the sessions judges will, immediately on the conclusion of sessions, transmit to the commissioner of the division a statement in the annexed form,* showing the result of the same. The Court take this opportunity of calling the attention of sessions judges to the objectionable nature of the practice which has recently been brought to their notice, of allowing a considerable period to elapse between the close of a trial in which they pass final sentence without reference, and the issue of their warrant for carrying the sentence into execution. The Court request that the warrant to the magistrate for carrying the sentence into execution, may be issued in all such cases within two days from the close of the proceedings.

* This has been omitted as sessions' judges furnish reports relating to the administration of criminal justice, and the commissioners only Police reports.

No. 120.

To the Commissioners of Circuit, Lower Provinces.

Lower Provinces, 28th September, 1832.

I AM directed by the Court to transmit to you, for your information and guidance, the accompanying extract from a letter addressed by the deputy secretary to Government in the judicial department, under date the 15th May last, to the register of the Nizamut Adawlut at Allahabad, and of a letter from the deputy secretary to the register of the Nizamut Adawlut for the lower provinces, under date the 11th instant, informing the Court, that the rates of travelling allowances to law-officers therein mentioned, should also be allowed in the lower provinces.

Extract of a Letter from the Deputy Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut for the Western Provinces, dated the 15th May, 1832.

PAR. 2. With reference to paragraph 2 of your letter, His Honor in Council observes, that it would be more comformable to the scale laid down in the orders of the 8th December, 1829, that the travelling allowance to a law officer should be two rupees a day, if his salary exceeds 100, and is not above 200 rupees per mensem. If above 200 rupees per mensem it should be 3 rupees a day. Instructions will accordingly be given to the civil auditor to pass bills at that rate.

Copy of a Letter from the Deputy Secretary to the Government in the Judicial Department, to the Register of the Nizamut Adawlut at the Presidency, dated 11th September, 1832.

In reply to your letter dated the 17th ultimo, I am directed by the Honorable the Vice-President in Council to desire you will inform the Court, that it is the intention of Government that the rates of travelling allowances of the law officers on circuit, fixed by orders to the Western Court from this department, dated 15th May last, be allowed to the law-officers in the lower provinces also.

No. 121.

To the Commissioners of Circuit and Session Judges in the Lower and Western Provinces.

Lower and Western Provinces, 5th October, 1832.

I AM directed by the Court to transmit to you, for your informa-

tion and guidance, the accompanying copy of a letter, under date the 28th May last, received by the register of the Nizamut Adawlut in the Western Provinces from the session judge of *zillah* Mynpooree, and of a letter addressed to him in reply by order of that Court.

Copy of a Letter from the Session Judge of Zillah Mynpooree to the Register of the Nizamut Adawlut, Western Provinces, at Allahabad, under date the 28*th May,* 1832.

I request to be informed whether a session judge has the power of directing a magistrate or joint magistrate to pay a reward to an individual in a case tried by him, whose conduct he considers deserving of remuneration; also, whether he may issue instructions relative to the manner in which he is of opinion that the commission of ten per cent. on the value of property recovered should be distributed among the individuals laying claim thereto, under clause 17, section 16, of Regulation XX. of 1817.

Copy of a Letter from the Register at Allahabad to the Session Judge of Zillah Mynpooree, dated 5*th October,* 1832.

In continuation of my letter of the 8th June, I am directed by the Court of Nizamut Adawlut for the Western Provinces to inform you, in reply to your letter of the 28th May last, that the Court, in concurrence with the judges of the Presidency Sudder, have determined as follows with regard to one of the points therein referred.

2. The Courts are of opinion that as the commissioners of circuit, in their capacity of judges of circuit, are competent under Section 17, Regulation XVI. 1810, and Section 15, Regulation XVII. 1816, to authorize a reward for meritorious services, whenever in the progress of a trial they may consider it proper to do so, the same power must be considered as vested in the judges of sessions under the same circumstances.

3. You will be hereafter informed of the Court's decision on the other question contained in your reference.*

No. 122.

To the Civil and Criminal Courts, Lower and Western Provinces.

Lower Provinces, 19*th October,* 1832.
Western Provinces, 12*th October,* 1832; 30*th Nov.* 1832.

I AM directed by the Court to transmit to you, for your information and future guidance, the accompanying copy of a letter

* The reply to this question was also in the affirmative. See Construction No. 727.

from the officiating secretary to Government, dated the 2nd instant, pointing out the mode of address to be adopted in communications to *sudder ameens* and principal *sudder ameens*.

2. I am also directed to observe that the Court are of opinion, that official communications in the native languages between European covenanted officers and *sudder ameens* and principal *sudder ameens* should be made by *roobukarees*, as has been hitherto the practice in the case of registers and assistants, instead of by *perwaneh* and *urzee*, the mode heretofore in force with respect to *sudder ameens*; and to request that you will adopt this mode in future.*

Copy of a Letter from the Officiating Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut, under date the 2nd October, 1832.

The Honorable the Vice-President in Council having taken into consideration the propriety of fixing the mode of address to be adopted in communications to the *sudder ameens* and principal *sudder ameens*, is pleased to determine that East Indians filling those situations shall be addressed by letter, and receive the appellation of "Esquire." The words "Uzeez-ool-qudor," or some designation of similar import, indicative of respect, is to be employed in communications to the natives filling those offices, and a corresponding mode of address observed.

2. The Court are requested to take the necessary measures for insuring the observance of these rules.

No. 123.

To the Commissioners of Circuit, Lower and Western Provinces.†

Lower and Western Provinces, 26*th October,* 1832.

In pursuance of the orders of Government, I am directed by the Court to request, that whenever you may have occasion to exercise, in your capacity of superintendent of police, the power of magistrate in districts from the session duties of which you have not been relieved, you will report the circumstance to Government through this Court, in order that provision may be made for the trial of any cases committed by you.

2. I am further directed to observe, that a commissioner, who retains the office of judge of circuit, should refrain, as much as possible, from interfering as superintendent of police, in cases of which it might be probable the cognizance would belong to him in any other capacity.

* See No. 128 of this Part for further rules.

† This circular, if in force, applies to the commissioners of circuit in the Western Provinces only.

No. 125.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 16th November, 1832.

I AM directed by the Court to transmit to you the accompanying extract, paragraphs 17 to 21, of a letter from the commissioner of circuit for the 14th division, to the register of the presidency Court of Nizamut Adawlut under date the 22nd September last, and paragraph 10 of one written on the subject thereof, by the order of the présidency Court on this date, to the officiating secretary to Government in the judicial department; and to request that you will carefully attend to the precaution noticed by the commissioner, to prevent overcharges and fraudulent practices on the part of native officers in the payment of diet money, allowed to indigent prosecutors and witnesses.

Extract of a Letter from the Commissioner of Circuit for the 14*th Division to the Register of the Nizamut Adawlut of the Presidency, under date the* 22*nd September,* 1832.

PAR. 17. By the Nizamut's circular letter of the 6th September, 1810,* the magistrates, in paying the prescribed allowances to indigent prosecutors and witnesses, are directed to be careful to ascertain the actual attendance of the parties on the courts of circuit, and desired to establish such checks as may appear to them most effectual to guard against overcharges by their native officers, and the detailed accounts for diet money are to be countersigned by the judge of circuit holding the jail delivery.

18. I am not aware that the magistrates can establish any effectual check against overcharges by their native officers, on account of diet money to indigent prosecutors and witnesses attending the sessions. But a complete check may be established by the judge holding the sessions, and with little or no trouble to himself, if, when he commences a trial, he will only ascertain what witnesses mentioned in the calendar are in attendance, and make a mark opposite the names of the absentees; and, on the termination of the trial, if he will demand from the magistrate's *nazir* a statement of his account for diet money in that particular case, have the persons stated to have received it brought before him, ascertain from them how much they have received, and direct whatever may be due to them to be paid in his presence.

19. Unless the judge takes some such precaution as above, he certainly, when countersigning the detailed accounts of diet money

* No. 75, Part I.

after the completion of the sessions, can be as little satisfied as to its correctness as the magistrate.

20. I have been led to make the above observations, in consequence of my detecting the native officer of the magistrate's court of Moorshedabad in cheating both the Government and the witnesses; the Government, by charging for witnesses who were not in attendance, and the witnesses, by giving them less than they were entitled to.

21. The witnesses he cheated by paying them their one anna, per diem in cowries, at the rate of 5 puns the anna, instead of 7, which was the bazar price, thereby depriving them of rather more than four annas and half in the rupee.

Extract of a Letter from the Register of the Nizamut Adawlut at the Presidency to the Officiating Secretary to Government in the Judicial Department, dated the 16th November, 1832.

PAR. 10. With reference to the remarks of the commissioner on the subject of overcharges and frauds on the part of the native officers in the payment of the diet-money allowed to indigent prosecutors, and witnesses, I am directed to state that the Court conceive the check suggested in the 18th paragraph to be a salutary one, and the several circuit judges will be directed, on holding a jail delivery, to attend to the precaution therein noticed, with a view of correcting the abuses which are found to exist under the present system.

No. 126.

To the Civil and Criminal Courts, Lower Provinces.

Lower Provinces, 16*th November*, 1832.

IN consequence of public officers, when making references to this Court, sending, instead of copies as heretofore, original papers which they request may be returned, much inconvenience has of late been experienced, arising from the delay which the examination of the copies prepared in this office occasions in the dispatch of the regular current business. I am therefore directed by the Court to request that, on such occasions you will send copies, except when you may think it more proper to send originals; in which case, if you deem it necessary to preserve copies for record in your own office, you will be pleased to have them prepared before submitting the originals.

No. 127.

To the Provincial Courts and Commissioners of Appeal, Zillah and City Judges, Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Western Provinces, 16*th Nov.* 1832.
Lower Provinces, 18*th Jan.* 1833.

You will herewith receive for your information and guidance copy of a letter under date the 16th October last, received from the officiating secretary to Government.

2. Your particular attention is requested to paragraph 2 of the secretary's letter, and you will be pleased to observe carefully the manner in which the provisions of Regulation VI. 1832, appear to work, with a view to enable you to draw out in a satisfactory manner, the report for which it is stated the Government intend to call on you at a future period; and to submit monthly statements, according to the accompanying form,* shewing the quantity of business performed in your court with the assistance of native *punchayets*, assessors, or jurors under the Regulation in question.

Copy of a Letter from the Officiating Secretary to Government in the Judicial Department, to the Register of the Sudder Dewanny Adawlut, dated the 16*th October*, 1832.

With reference to the recent enactment of Regulation VI. 1832, passed on July 31st last, which authorizes European officers presiding in civil or criminal courts, to avail themselves of the assistance of respectable natives in the conduct of civil suits or criminal trials, I am directed by the Honourable the Vice-President in Council to request that you will communicate to the Court the following observations.

2. The measure is experimental, and it is hoped that by means of it information may be elicited to enable the Government to judge of the practicability and expediency of introducing throughout the country an efficient system of trial by jury. In order that this end may be attained, the Court are requested carefully to watch the working of these rules, and to be prepared to lay before the Government at the earliest convenient period, a report detailing the number of instances in which recourse has been had to the provisions of the regulation, the mode of trial therein prescribed which has been adopted, and the success which has attended the measure.

3. It will be observed that a large discretion is vested in the presiding officer. He is left to select either of the three modes indicated, or altogether to reject them; and if he select either of

* This form is superseded by one annexed to the session judge's statement, and has therefore been omitted.

the modes, the particular manner in which it is to be carried into effect is left to his own determination. It need only be further remarked, that no power of compulsion is granted by the regulation. To this point the attention of all the public functionaries should be especially called, and they should be clearly informed, that by no construction of Regulation XII. 1825, which enjoins punishment for contempt of court, or any other enactment, are they authorized to compel the attendance of persons who may be reluctant voluntarily to render their services. They are empowered to invite the services of natives as arbitrators, assessors, or jurors, but by no means to compel them.

4. The requisition of oaths from persons employed is not considered to be necessary, and is never to be enforced. His Honor in Council is disposed to think that it will be wise to abstain from proposing them.

5. The provisions of Section 5 may, at first sight, appear to be opposed to the general discretionary character of the enactment. It may however be observed, that this clause is only intended to obviate the necessity of trial under the Mahomedan law in certain cases, where it is known to be felt as an unnecessary grievance by many of the native subjects of the Government.* The option need not be given unless it is claimed. By those who feel the usual mode of trial to be offensive, the claim will be spontaneously urged and to no other cases are the provisions intended to apply. Inconvenience need never be experienced from that cause in the conduct of the trial, because there are always officers of respectability attached to the court, law officers, *sudder ameens*, or principal *sudder ameens*, who can be invited to take part in the proceedings as assessors in the mode indicated in clause third, Section 3, and on whose part there can be no reasonable ground for declining compliance with such an invitation.

6. The Government has reserved to itself the selection of those individuals to whom, in their character of civil judge, the power is to be entrusted. His Honor in Council has however no hesitation in at once granting it to all those judges, who are considered qualified to exercise the high powers conferred by Regulation V. 1831. The Court are therefore requested to intimate to the civil judges in all those districts into which the provisions of Regulation V. 1831, have been introduced, that they are considered also authorized to use the discretion conferrible under Section 2, Regulation VI. 1832. This power will also attach to all their successors, whether temporary or permanent, and will be considered as naturally consequent on nomination to the appointment. The judges of the provincial courts are also invested with the powers, and the Court of Sudder Dewanny Adawlut are, of

* See No. 181 of this Part.

course, considered competent to use them if at any time an opportunity should present itself.

7. If there are other judges to whom the authority is not extended by the above paragraph, and by whom the Court consider that it may be advantageously exercised, they are requested to bring the subject to the notice of the Government.

8. The success of this measure must so evidently depend upon the judgment with which its provisions may be carried into effect, that it is unnecessary to enlarge upon this branch of the subject. His Honor in Council confides in the discretion of those to whom the powers are given, and trusts that the Government will meet with their cordial co-operation in this attempt to introduce into the judicial system of this country one of the most highly prized institutions of our own.

9. The views of Government as set forth in this letter, the Court are requested to intimate to the subordinate functionaries.

No. 128.

To the Criminal Courts, Lower and Western Provinces.

Western and Lower Provinces, 14th December, 1832.

In continuation of the Court's circular letter, No. 122, (dated in the Western Provinces the 12th, and in the Lower the 19th October last,) I am directed by the Court to transmit to you for your information the accompanying copy of a letter from the officiating secretary to Government, judicial department, dated the 27th ultimo, prescribing the forms of address and titles to be used in official communication with the different grades of native judges.

Copy of a Letter from the Officiating Secretary to Government, in the Judicial Department, to the Register of the Sudder Dewanny, under date the 27th November, 1832.

With reference to my letter, dated the 2nd ultimo, I am directed to request you will inform the Court of Sudder Dewanny Adawlut that the Vice-President in Council has taken into further consideration the distinction between the forms of address and titles by which the different grades of native judges are to be addressed, and is pleased to resolve that the following forms shall be observed:

Principal Sudder Ameens.

	Form of Address.	*Title.*
Christian.	Sir.	Esquire.
Mahomedan	لیاقت و اهلیت مآب سلمه الله تعالی	خان بهادر
Hindoo.	ایضا	رای بهادر

Sudder Ameens.

Christian.	Sir.	Esquire.
Mahomedan.	رفعت و عوالی منزلت سلمه	خان
Hindoo.	ایضا	رای

Moonsiffs.

Christian.	Sir.	Mr.
Mahomedan.	لعافیت با شند	دیانت و امانت پناه
Hindoo.	ایضا	ایضا

2. These will be considered the official titles and forms of address of each of the above grades, and will be used by the covenanted servants of the Government whenever they have occasion to address any written communication to the officers concerned.

3. The Court are requested to circulate these orders for the instruction aud guidance of the subordinate authorities.

No. 129.

To the Commissioners of Circuit and Session Judges, Western Provinces.

Western Provinces, 19*th November*, 1832.

Several instances having lately come to the notice of the Court of neglect, on the part of judges holding criminal trials, of the rules for placing prisoners on their trial, laid down in paragraphs 6 and 8 of the circular order of 16th July, 1830;* the Court direct me to call your attention to the subject, and to request that you will strictly observe those rules in your future proceedings. The Court observe that after the deposition of the prosecutor, the prisoner should be called on merely to plead "guilty" or "not guilty" to the charge; the nature of the charge having been distinctly explained to him in this stage of proceedings, no further

* No. 54 of this Part.

question should be addressed to the prisoner. After the close of the evidence for the prosecution, the prisoner should be called on for his defence; no questions being addressed to him beyond those necessary to elucidate his meaning, and every thing of the nature of an examination, especially such questions as might lead him to criminate himself, being carefully avoided. I am directed more particularly to impress on you the necessity of a strict attention to regularity on this head, as a neglect of it may often render it necessary that the prisoner be again placed on his trial and the whole of the evidence heard over again.

No. 130.

To the Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 21*st December*, 1832.

I AM directed by the Court to transmit to you for your information the accompanying extracts, paragraphs 2 and 11, from a letter written by order of the presidency court on the 7th of September last, to the deputy secretary to Government on the general police report for the 13th division for the first six months of 1832, containing a construction of Regulation II. 1832, which has received the sanction of Government.

Extract of a Letter from the Register of the Presidency Court of Nizamut Adawlut, to the Deputy Secretary to Government in the Judicial Department, dated 7th September, 1832.

PAR. 2. With advertence to the commissioner's observation that the decrease in the reported burglaries and thefts may be ascribed to the provisions of Regulation II. 1832, the Court remark that the provisions of the regulation in question do not exempt the *chowkeedars* from the duty of reporting the commission of such offences to the police, who are still bound to report all cases that come to their knowledge to the magistrate: it only prohibits the police from arresting any person, or making local inquiries, without a written application from the party injured. This opinion, with the construction of Regulation II. 1832, contained in the 11th paragraph of this letter, the Court, with the concurrence of Government, propose to issue for the information of the several magistrates and their police officers.

11. With reference to the remark of the commissioner that the police are now prohibited from interfering with robberies unattended with violence, the Court repeat the remark contained

in the 2nd paragraph of this letter, that Regulation II. 1832 does not alter the law heretofore in force regarding any heinous crimes except burglaries and theft. As to the concealment of crime by the police, the Court will desire that the magistrate be reminded that he should make use of other sources of information than his police officers to discover crimes, and use his utmost endeavours, by conciliation and kindness, to procure the co-operation of respectable landholders and their agents, in the detection of offenders.

No. 131.

To the Civil Judges and Commissioners of Revenue and Circuit, Lower and Western Provinces.

Lower and Western Provinces, 4th January, 1833.

I AM directed by the Court to transmit to you, *for your information and guidance,* the accompanying copy of a letter this day addressed by their order to the commissioner of revenue and circuit for the 15th division; [and to request that you will communicate the same to the collectors and magistrates of your division, and direct the latter, under whose controul the civil jails are now placed, to instruct the civil jailors to obey the collector's warrant for the confinement or release of defaulters.*]

Copy of a Letter from the Register of the Presidency Sudder Dewanny Adawlut to the Commissioner of Revenue and Circuit for the 15th Division, dated the 4th January, 1834.

I am directed by the Court to acknowledge the receipt of your letter of the 11th ultimo and its enclosure, relating to the necessity of the civil judge's signature to the *perwaneys* to the *dewanny* jailors, for the confinement, at the instance of the collector, of persons in summary suits for rent under Regulation VIII. 1831.

2. In reply, I am directed to inform you, that the Court are of opinion, that as collectors are empowered by Section 20, Regulation VIII. 1834 to execute their own awards, their orders for the confinement and release of defaulters need not pass through the civil judges; and that the warrant of the collector is a sufficient authority to the civil jailor to receive or discharge a prisoner. Copies of this letter will be circulated to the civil judges and commissioners of revenue and circuit for general information.

* The words in italics were omitted in the letter to the commissioners, and the latter part, between brackets, was not communicated to the civil judges.

No. 132.

To the Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 18th January, 1833.

The provisions of Section 49, Regulation IX. 1793, (Section 17, Regulation VII. 1803,) have been ruled to allow a second postponement only of a criminal trial; it being imperative on the judge of circuit, holding the third sessions after the commitment, to dispose of the case on such evidence as may then be before him. The commitments in districts to which Regulation VII. 1831, has been extended are now to be held as soon as possible by the session judge; and it is necessary to provide against the prolonged confinement of prisoners in cases postponed by session judges, and also to afford sufficient time to procure the attendance of the necessary witnesses. The Court therefore direct me to communicate the following rule for your information and future guidance.

2. No criminal trial shall be postponed by a session judge beyond the session of jail delivery which may be held next after the expiration of the period of six months from the date of commitment; except when, for special reasons, the session judge may be of opinion that it should be again postponed; in which case he will report the circumstances under which it has been already postponed, and the grounds on which he has formed his opinion for the orders of the Court.

No. 133.

To the Commissioners of Circuit, Lower and Western Provinces.

Lower and Western Provinces, 15th February, 1833.

I am directed by the Court to transmit to you, for the information and guidance of the magistrates and joint magistrates of your division, the accompanying extract (paragraphs 2 and 3) from a letter addressed by their order to the register of the court of Nizamut Adawlut for the Western Provinces, under date the 7th December last; in regard to the power of magistrates and joint magistrates to refer criminal cases for investigation to law officers, principal *sudder ameens* and *sudder ameens*. This construction of course supersedes that contained in the circular order of the 24th July, 1829.

Extract (paragraphs 2 and 3) from a Letter from the Presidency Court of Nizamut Adawlut to the Register of the Court of Ni-

zamut Adawlut for the Western Provinces, dated the 7th December, 1832.

PAR. 2. The Court are of opinion that by Section 3, Regulation III. 1821, the *zillah* and city magistrates are empowered to refer petty complaints for trial to the Hindoo and Mahomedan law officers, without reference to the circumstance of their being *sudder ameens;* the powers vested in law officers by Section 3, being extended by Section 4 to *sudder ameens* especially empowered under Section 5, Regulation II. 1821, and to *sudder ameens* appointed to the stations of joint magistrates, whether so empowered or not. They consider the above rules to be still in force, and in no way affected by clause 6, Section 18, Regulation V. 1831, which, while it authorizes the reference of any criminal case for investigation to a *sudder ameen*, or principal *sudder ameen*, not being a Mahomedan law officer, though not finally cognizable by him, still leaves the Mahomedan law officer, whether a *sudder ameen* or not, the power of trying cases finally cognizable by him, which may be referred to him. The reason of the exception in regard to the Mahomedan law officer, appears to be the obvious impropriety of his investigating a case in the trial of which if committed to the circuit or session court, he might have to sit as assessor and deliver a *futwa*, as to the guilt or innocence of the prisoner.

3. The Court further direct me to observe, that they are confirmed in the foregoing opinion by Section 3, Regulation II. 1832, which expressly extends the powers of punishment in criminal cases, previously vested in the Native *law officers* by Section 3, and in *sudder ameens* by Section 4, Regulation III. 1821; and that, had those powers been conferred on the law officers, solely in virtue of their holding the office of *sudder ameen*, it is manifest they would not, in the above first enactment, have been distinctly referred to in the former capacity, now that they are no longer *sudder ameens* ex-officio.

No. 134.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 22*nd February*, 1833.

THE Court having had occasion to observe much inattention to the provisions of Section 78, Regulation IX. 1793, which direct that warrants for the capital punishment of convicts under sentence of the Nizamut Adawlut shall, after being carried into execution,

be transmitted to the court from which the sentence issued; I am directed to request that you will in future conform strictly to that rule, transmitting to this court all executed death warrants immediately on the receipt of them from the magistrates.

No. 135.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, the 22nd February, 1833.

In reviewing the proceedings held on various trials lately referred to this court, or called for on a revision of the periodical statements, the Court have had frequent occasion to remark the irregularity which still prevails in the form of putting the prisoners on their trial, as well as great inattention to the rules in force for drawing out the charge or indictment on which the prisoner is tried. These irregularities are not mere deviations from prescribed forms, but in many instances serious omissions, such as vitiate the whole proceedings, and have occasionally rendered it necessary that the case should be retried, to the great inconvenience of the witnesses, the delay of justice, and the increase of labour to the judges and ministerial officers of the criminal courts.

2. The circular order of the 16th July, 1830,* having fully detailed the proper course of proceeding in every stage of criminal trials, it is deemed unnecessary to issue new directions on the subject. Your strict attention, however, is requested to the rules therein laid down, and more especially to paragraphs 15, 16, and 17, regarding the framing of the charge. On first taking up a case committed for trial, the Court are of opinion that the presiding judge should compare carefully the written charge on which the prisoner is committed with the facts of the case as stated in the magistrate's *roobukaree* of commitment, and that he should, in this stage of the proceedings, cause the magistrate to rectify what may be erroneous, and supply what may have been omitted. This practice would, in the Court's opinion, tend to check in a great measure the irregularities now observable, and in the end be the means of saving the useless expenditure of much time and trouble. In calling on the prisoner to plead, the judge should be careful that the question addressed to him, corresponds exactly with the written charge, and where more than one prisoner are included in

* No. 54 of this Part.

a case, the question should be addressed, separately and distinctly, to each by the judge himself. There are many other points of less consequence a greater degree of attention to which is desirable; and it may be observed generally, that even matters of mere form, when connected with a criminal trial on which the character, liberty, and often the life of an individual depends, assume a degree of importance, which, on a superficial view of the subject, they might not appear to possess. The circular order above referred to contains clear and compendious directions on all these points, and a strict adherence to them being deemed essential, the Court confidently rely on your utmost exertions to ensure the attainment of this object.

3. The Court have had occasion to remark, that sufficient attention is not paid to correctness and uniformity in the manner of spelling the names of prisoners in the record of evidence. This is a point of great importance, and should meet with your particular attention. Where several prisoners bearing the same or similar names are included in one trial, care should be taken, in recording the evidence given by each witness, to specify the name of the father of the person alluded to, whenever the name of any one of them is mentioned. Very serious inconvenience has resulted from the neglect of this precaution.

4. In your future letters of reference, you are requested to note in the margin under the "charge" on which the prisoner is committed, the date on which the offence is supposed to have been perpetrated.

5. Great delay has occasionally taken place between the conclusion of a trial and the receipt of the record of the case in this office. It is needless again to point out the objectionable nature of the practice of deferring the reference of trials, a former circular order* having already directed that every means be used to prevent such delay. As however there is reason to believe that it is thought necessary by some session judges to have the whole of the magistrate's proceedings copied previous to the transmission of the originals with the transcript of the proceedings on trial, I am directed to observe, that no such necessity exists; the presidency court on a former occasion† directed that the original proceedings of the magistrates should be sent, with a view to avoid the delay, trouble, and expense attending the copying of them. The practice noticed effectually defeats the object of the Court's order, and should be avoided; unless, in special cases, where peculiar reasons may exist for adopting it.

* No. 54 of this part, Para. 24.

† No. 27, Part I. para 4, and No. 94, Ibid.

No. 137.

To the Civil and Criminal Courts, Lower and Western Provinces.

Lower and Western Provinces, 7th June, 1833.

Doubts appearing to be entertained as to what is to be considered the date of promulgation of a regulation, I am directed to transmit to you, for your information and guidance, the accompanying copy of a letter, addressed by order of the Court to the judge of *zillah* Ghazeepore, on the 2nd January, 1824.

Copy of a Letter from the Register of the Sudder Dewanny Adawlut to the Judge of Zillah Ghazeepore, under date the 2nd January, 1824.

The Court of Sudder Dewanny Adawlut have had before them your letter, dated the 6th of September last, together with its annexed copy of correspondence, requesting to be informed, whether the promulgation of a regulation should be dated from the receipt of the English copy, or of the Persian translation of it.

2. In reply, I am desired to communicate to you the opinion of the Court, that you should be guided by the instructions of Government, conveyed to you in the chief secretary's letter, dated the 14th of August last; and that a regulation should be considered promulgated from the date of the receipt of the English copy.*

No. 140.

To the Commissioners of Circuit, Lower and Western Provinces.

Lower Provinces, 1st November, 1833.
Western Provinces, 1st November, 1833; *6th December,* 1833.

I am directed by the Court to forward to you the accompanying copy of a letter from the secretary to Government in the Judicial Department, dated the 19th ultimo; and to request that you will instruct the magistrates of your division to cause all the gibbets, whereon the bodies of executed criminals may now be exposed, to be removed, and the latter to be either burnt or buried.

2.† I am further directed to state that the future sentences of

* This rule is applicable *retrospectively* to Regulations, but not to Acts of Government which are promulgated in the Calcutta Gazette.

† The substance of this paragraph was circulated by the Western Court under date the 6th December, 1833.

the Court will direct that the bodies of criminals shall, after execution, unless claimed by their relations or friends, be either burnt or interred. The magistrates will consider it discretionary with them to dispose of the body in either of these modes most consonant with the customs of the tribe and caste of the sufferer.

Copy of a Letter from the Secretary to Government in the Judicial Department to the Register of the Nizamut Adawlut, dated 19*th October*, 1833.

I am directed by the Right Honorable the Governor General in Council to request that the Court will issue orders for the removal of all gibbets on which the bodies of criminals may be now exposed.

2. I am also instructed to request, that the Court will not in future direct the bodies of any criminals to be exposed on gibbets after execution.

No. 141.

To the Session Judges, in the Lower and Western Provinces.

Lower and Western Provinces, 22*nd November*, 1833.

I AM directed by the Court to forward to you, for your information and guidance, the accompanying copy of a letter from the officiating session judge of Ghazeepore, to the register of the court of Nizamut Adawlut in the Western Provinces, dated the 11th ultimo, and of the register's reply under date the 25th of the same month.

Copy of a Letter from the Officiating Session Judge of Zillah Ghazeepore to the Register of the Nizamut Adawlut for the Western Provinces, dated 11*th October*, 1833.

I request to be informed whether it is the opinion of the Court of Nizamut Adawlut that the sessions ought to be held during the *dusserah* vacation. I make this request, as the *moulvee* of this court (who is also principal *sudder ameen*) has applied for leave to proceed home for the holidays.

Copy of a Letter from the Register of the Nizamut Adawlut for the Western Provinces to the Officiating Session Judge of Zillah Ghazeepore, under date 25*th October*, 1833.

I am directed by the Court to acknowledge the receipt of your letter of the 11th instant.

2. In reply, I am directed to inform you, that in the opinion of the Court the principle of Section 4, Regulation III. 1798, should be still considered applicable to the vacations; viz. that the trial of such cases as have been committed and ready for trial previous to the commencement of the vacation should be completed, although the vacation may supervene in the course of it; *but that it is not necessary to take up during the vacation, such cases as have been committed for trial, since its commencement.**

No. 142.

To the Commissioners of Circuit, Lower and Western Provinces.

Lower and Western Provinces, 31*st January,* 1834.

I am directed by the Court to forward to you for the information and guidance of yourself and the magistrates and joint-magistrates of your division the accompanying copy of a letter addressed on the 13th ultimo, to the commissioner of circuit for the 14th division.

Copy of a Letter from the Register of the Presidency Nizamut Adawlut to the Commissioner of Circuit for the 14*th Division, dated the* 13*th December,* 1834.

I am directed by the Court, to acknowledge the receipt of your letter of the 2nd instant, and in reply to refer you to the provisions of Section 8, Regulation XI. 1831, which declare all orders of magistrates regarding the appointment and removal of police officers subject to those of the commissioner of circuit; and by which the circular order of the 8th April, 1818, must be considered as superseded.†

No. 143.

To certain Judges in the Lower and Western Provinces.‡

Lower and Western Provinces, 21*st March,* 1834.

I AM directed by the Court to transmit, for your information and guidance, the accompanying copies of correspondence relative to the custody of civil prisoners confined under the orders of principal *sudder ameens, sudder ameens,* and *moonsiffs,* holding their

* See No. 8, Part III. by which what is in Italic has been superseded.

† In the Lower Provinces the Superintendent of Police is to exercise these powers. See Section 4, Act XXIV. 1837.

‡ This circular was addressed to the judges in whose districts joint-magistrates resided at other places than the sudder station of the zillah court, and to those joint-magistrates.

courts within the jurisdiction of a joint-magistrate residing at other place than the *sudder* station of the *zillah* court.

2. The correspondence has been forwarded to the joint-magistrate of your district for his information and guidance, and you are requested to issue the necessary instructions to the native judges who may hold their *cutcherries* within his jurisdiction.

Copy of a Letter from the Judge of Zillah Dacca, to the Register of the Presidency Court of Sudder Dewanny Adawlut, under date the 5*th February*, 1834.

I request you will represent to the judges of the Sudder Dewanny Adawlut the great difficulty and hardship that will arise from having all the defendants in cases of execution of decrees sent from Furreedpoor to this place, as intended by Section 7, Regulation VII. 1832. In the rainy season there are three large and dangerous rivers to cross; and the hardship and injustice of sending civil prisoners to a jail, distant in some cases at least ninety miles from their houses, in the neighbourhood of which alone they can expect to find means of paying their debts, requires no comment from me. The probability of their escaping, the expence of boat hire, and various other objections arise.

2. I have therefore, for the present, desired the chief *sudder ameen* and *moonsiffs* to forward such prisoners to the magistrate at Furreedpoor, whom I have requested to accommodate them in the *dewanny* jail at that place, and to send them over to Dacca by the boat which comes monthly with prisoners and witnesses for the sessions. But I trust the Court will either devise or recommend some plan to Government for the civil prisoners of the Furreedpoor division to be detained at Furreedpoor, and not transported to Dacca.

Copy of a Letter from the Register of the Presidency Court of Sudder Dewanny Adawlut, to the Secretary to Government in the Judicial Department, under date the 21*st February*, 1834.

I am directed by the Court to request that you will lay before the Honorable the Vice-President in Council the accompanying copy of a letter from the judge of *zillah* Dacca, representing the inconvenience and danger attendant on a strict observance of the rule contained in Section 7, Regulation VII. 1832, in the case of persons arrested in execution of decrees under the orders of the principal *sudder ameen* and *moonsiffs* of that part of the district which is under the joint-magistrate of Furreedpoor.

2. The Court are of opinion that, except in cases in which the debtors might wish to be sent to Dacca, if the principal *sudder ameen* and *moonsiffs* were required, on forwarding any person to

the joint-magistrate at Furreedpoor for confinement in the civil jail, at the same time to report the circumstances to the judge at Dacca, who would confirm or cancel the order as might appear just and proper, the form required by the regulations would be sufficiently observed; and they propose, should Government see no objection, to instruct the judge of Dacca accordingly.

Copy of a Letter from the Deputy Secretary to Government in the Judicial Department, to the Register of the Sudder Dewanny Adawlut, under date the 10*th March*, 1834.

I am directed to acknowledge the receipt of your letter, dated the 21st ultimo, with its enclosure from the judge of Dacca, representing the inconvenience and hardship of sending from Furreedpoor to Dacca all defendants in cases of execution of decrees passed by the principal *sudder ameen* and *moonsiffs* within the Furreedpoor limits, in conformity with the rule in Section 7, Regulation VII. 1832.

2. The Vice-President in Council sees no objection to the instructions which the Court propose to issue on this subject.

No. 146.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 6th June, 1834.

With a view to ensure uniformity in the forms of warrants of imprisonment, including a sentence of fine in lieu of labor, under the provisions of Section 3, Rugulation II. 1834, the Court request that the folllowing form may be adopted for this purpose by commissioners and session judges?

" ——— and sentenced to be imprisoned without irons for " ——— years from this date, and to pay a fine of Rs. ———, on " or before the —— day of ——, or, in default of payment, to labor " until the fine be paid, or the term of sentence expire."

[A sentence of fine in lieu of labor may be passed on conviction of knowingly issuing forged documents—affray unattended with aggravating circumstances—priority to burglary and escape from jail for the period a prisoner may be confined for that specific offence. See Constructions Nos. 899, 972, 1178 and 1215.

No. 147.

To the Commissioners of Circuit and Civil and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 3th June, 1834.

In transmitting a copy of Persian proceedings with an English certificate, containing a partial return to a precept of the Court, it is customary with many of the commissioners and civil and session judges to omit to mention the date of the Court's precept to which the partial return is made, and much time is lost in this office in searching the books to find the order to which it has reference. Those officers are requested therefore, in future, on making such returns, to draw up their English certificates in the following form:*

"With reference to a precept of the Sudder Dewanny (or Ni-"zamut Adawlut,) dated the ——— in the case noted in the "margin, —— *versus* ——, I transmit herewith a copy of the pro-"ceedings of this Court under this date, and certify that a farther "(or complete, as the case may be), return will be made on or be-"fore the ———.

"Given under my hand, and the seal of this court, this — day "of ——— 183 —. (Signed) A. B., judge (or commissioner)."

No. 148.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 8th August, 1834.

As it is necessary that the Court shall be aware of the period which elapses between the different stages of proceedings in criminal trials and in the previous investigations before the magistrates, to enable them to frame a satisfactory report to Government on the administration of criminal justice, I am directed to request, that in the note annexed to head of letters of reference in criminal trials, you will state, opposite to the name of each prisoner, the dates of his apprehension and commitment for trial; you will also add under the head of "Charge," the date on which the crime is alleged to have been committed.

2. It is observed that sufficient attention is not given to the rule laid down in the circular order of the 22nd June, 1832, (No. 108 of this Part) which requires, that in the session statements of

* See No. 160, Certificate No. 8, of this Part, which supersedes the form here given.

acquittal and conviction an entry should be made in column 7, of the date in which each prisoner was committed for trial. The Court direct me, therefore, to bring the circumstance to your notice, and to request that this information may be invariably given in future. The date on which the offence was committed should be also mentioned, as required by the circular order of the 25th November, 1831.

No. 149.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 8th August, 1834.

WITH reference to the circular order of the 29th June, 1832, (No. 110 of this Part) the Court request that you will consider the rule therein laid down applicable to criminal trials the proceedings in which are submitted for their perusal in obedience to a precept, as well as to trials called for by letter on a perusal of the session statements.

No. 151.

To the Commissioners of Circuit, Lower and Western Provinces.

Lower and Western Provinces, 25th September, 1834.

I AM directed by the Court to transmit for your perusal, a copy of a letter from the secretary to Government, judicial department, under date the 1st instant, pointing out the means to be adopted by magistrates for lightening the duties of their office when they may have become too laborious to be otherwise performed.

2. You are requested to transmit copies of the same to the magistrates of your division, for their information and guidance. You will at the same time prohibit strictly a practice on the part of those officers, of which an instance has been brought to the Court's notice, of holding *cucherry* at the same time in the judicial and revenue departments. The Court have no reason to believe this to be a general custom, but it is thought necessary to make the magistrate aware that no press of business will be considered a sufficient excuse for so irregular and objectionable a course of proceeding.

Copy of a Letter from the Secretary to Government in the Judicial Department to the Register of the Nizamut Adawlut at Allahabad, under date the 1*st September*, 1834.

I am directed by the Honorable the Vice-President in Council to acknowledge the receipt of your letter, dated the 8th ultimo, with its enclosures, and in reply, to communicate the following observations and orders.

2. The commissioner, under a mistaken view of the orders of Government on his police report for 1833, requiring that the magistrates should retain in their own hands the general control of the police, has required Mr. Pidcock to revise the proceedings of the joint-magistrate in all cases committed to the session judge, and all other cases of importance, whereas it would have been quite sufficient if he had left all the business of the office at the *sudder* station to the joint-magistrate and deputy collector, with the aid of the assistants; reserving to himself the general control of the police, and a general knowledge of the manner in which the business was conducted by his subordinates, to enable him to interfere whenever he might, for any special cause, deem it necessary.

3. Such an arrangement would have afforded to Mr. Pidcock ample time for making settlements during the season for field operations, and to exercise an efficient control over the conduct of his subordinate officers, as well as the police, for both of which objects the information which he might obtain in the interior of the district would afford peculiar advantages; and it is very important that the native establishments, as well as the people, should see that such control is retained in the hands of the magistrate and collector; and that he is equally anxious and concerned in the proper and efficient administration of every part of the duties of his office. This can be effected without difficulty, if the head of the office will limit himself to matters of real importance, and will leave the details, subject to a vigilant and systematic control on his own part, in the hands of his subordinate officers. But if the magistrates and collectors will persist in doing business, which can be efficiently performed by their subordinates, they cannot have time to attend to more important business; thus they become overwhelmed with details, and they attribute their difficulties to the system, whereas the fault is in themselves for not working the system judiciously.*

4. The Court are requested to commmunicate these orders to Mr. Pidcock, through the commissioner, and to issue such circular orders as they consider best calculated to give effect to the objects stated in this letter, that the system may be properly worked. and such defects, as may be then found to attach to the system, corrected.

* See No. 229 of this Part.

5. The Court will of course prohibit in all districts the objectionable practice brought to notice in the correspondence.

No. 156.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 11*th April*, 1834.

WITH a view of checking the practice by magistrates of committing persons for trial on inadequate grounds, the Court, by their circular order of the 8th May, 1829, (No. 24 of this Part,) required the commissioners to specify in their remarks on the statements of acquitted prisoners, whether they deemed the commitments to be made on sufficient grounds; and being of opinion that such remarks should be communicated to the magistrates by the commissioners and session judges, have been pleased to issue the following rule for their guidance.

2. Whenever the commissioners or session judges may have occasion to notice any thing in a commitment calling for the notice of the Court, they will be pleased to specify the same in their remarks on the statements of acquitted prisoners, and to mention the name of the officer to whom the remark may apply. *They will, at the same time, furnish him with a copy of the remark, certifying to the Nizamut Adawlut that they have done so, for such explanation as he may wish to offer to the Court with regard to any commitment that may have been considered objectionable.**

No. 157.

To the Commissioners of Circuit, Civil and Session Judges, Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower Provinces, 5th December, 1834.

IN modification of the Court's circular of the 3rd October last, I am directed to inform you, that the Court have been pleased to dispense with the copy of the order under which you may deliver over charge of your office; but request, that you will state in your letter the authority for doing so, the date of the order under which you act, and the nature of the power vested in the relieving officer.†

* The Rules in the last sentence of this circular have been annulled, see No. 168 of this Part.

† Instructions similar to those contained in this circular were issued by the Court of Sudder Nizamut Adawlut for the Western Provinces under dates 7th November, 1834, and 23rd January, 1835.

No. 158.

To the Commissioners of Circuit and Zillah and City Judges, Lower and Western Provinces.

Lower Provinces, 31st January, 1845.

I AM directed by the Courts of Sudder Dewanny and Nizamut Adawlut to transmit for your information and guidance the accompanying copy of a letter and its enclosure from the secretary to Government of India in the judicial department, dated the 23rd instant.

Copy of a Letter from the Secretary to the Government of India to the Register of the Sudder Dewanny Adawlut at Calcutta, under date the 23rd January, 1835.

I am directed by his Excellency the Right Hon'ble the Governor General of India in Council to request that you will lay before the Sudder Dewanny and Nizamut Adawlut, for their information and for communication to the authorities subordinate to them, the accompanying copy of a letter this day addressed to the civil auditor.

Copy of a Letter from the Secretary to the Government of India to the Civil Auditor, under date the 23rd January, 1835

I am directed by the Right Honorable the Governor General of India in Council to acknowledge the receipt of your letter, dated the 8th instant, and in reply to inform you, that His Lordship in Council approves the suggestion submitted in the 2nd paragraph, viz. "that (in all instances in which they have hitherto "been fixed in sicca rupees) the salaries of uncovenanted assis-"tants in public offices be reduced at once to sonat rupees by "the addition of 4½ per cent. to those of present incumbents; with "a distinct understanding, that as vacancies happen the officers "appointed in succession are only to receive in sonat what their "predecessors received in sicca rupees."

2. You are desired to observe these rules in all future cases, and to make it generally applicable to the uncovenanted servants under all departments of Government.

No. 159.

To the Commissioners of Circuit and Civil and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 6th February, 1835.

IN pursuance of the orders of Government, I am directed by the Court to transmit to you, for record in your office, the accom-

panying copies of rules for defining the duties to be performed by assistants and other officers in charge of the office of civil and session judge.

2.* Whenever you deliver over charge of your office to an officer not authorized to act as judge, you will be pleased to call his particular attention to these rules, and certify that you have done so in the letter reporting the fact to the Court.

RULES FOR DEFINING THE DUTIES OF ASSISTANTS AND OTHER OFFICERS IN CHARGE OF THE OFFICE OF CIVIL AND SESSION JUDGE.

First. Whenever the charge of the current duties of civil and session judge of any *zillah* or city may, from death, indisposition or other casualty, devolve to the assistant attached to the court; or whenever the assistant to the commissioner, collector, or magistrate, or any other covenanted European officer may, by the orders of a competent authority, take charge of the current duties of the office of judge or session judge, (not being vested by Government with the full power of judge,) such assistant or other officer shall confine himself to the exercise of such part of the powers of judge as may be indispensably necessary for the immediate execution of processes or orders of the Sudder Dewanny and Nizamut Adawlut, for the issue of warrants under sentences of the Nizamut Adawlut, making returns to such warrants, and the transmission to the Court of the proceedings in criminal trials for the execution of the processes from other *zillah* or city courts, or for such other cases of emergency as will not admit of delay. †

Second. ‡ Such assistant or other officer is also authorized to receive any new civil suits of whatever description, which may be instituted according to the regulations; to refer to the subordinate courts such as may be cognizable by them, and to proceed upon suits which are exclusively cognizable by the judge, so far as to issue notice to, or summon the defendant, and receive his answer, as well as any written documents or lists of witnesses which may be offered by the parties or their *vakeels*, in pursuance of orders passed previously by the judge; but no further, unless in any instance there appear to be urgent reason to take the evidence of any witness or witnesses in such suits, in which case he may take or cause to be taken the depositions of such witnesses under the general rules prescribed for the conduct of the *zillah* and city judges.

Third. He is likewise empowered to receive any sums which parties may be desirous of depositing in cases of mortgage, or as

* The second paragraph was communicated to the judges only.

† See No. 38, Part III.

‡ This and the next rule only apply to the civil courts.

vakeels' fees; and to pay to *vakeels* or other parties sums, for the payment of which the judge may have already given orders. He shall also be empowered to conduct, in conformity to the regulations, any summary inquiries which may appear to require immediate attention and process: to make the summary investigations respecting the indigence of persons desirous of suing *in formâ pauperis*, and respecting the validity of security tendered by parties under the orders of the judge or other competent authority; to carry into effect orders passed previously by the judge for the sale of property attached in execution of decrees or other judicial process, or to stay the sale of such property pending the investigation of objections or claims preferred; but it shall not be competent to the assistant or other officer to hold such investigation, or to issue orders for the sale of such property, excepting when it may be of a perishable nature.

Fourth. The assistant or other officer in charge will cause to be prepared and forwarded any statement or reports which the civil or session judge may, under the rules in force, be required to submit to the Sudder Dewanny or Nizamut Adawlut, or to Government, as the case may be.

No. 160.

To the Commissioners of Circuit, and Civil and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 6th February, 1835.

I AM directed by the Court to forward to you for your information and guidance, the accompanying copy of rules regarding precepts and returns, with the forms of such as are applicable to your court.

RULES REGARDING PRECEPTS AND RETURNS.

First. All precepts shall be drawn out according to the annexed forms: (Nos. 1, 2, 3, 4, 6, and 7.*)

Second. All orders directing the issue of precepts shall state whether a return is required, and within what period.

Third. The period shall be calculated from the date of the despatch of the precept from this office.

Fourth. Precepts and returns shall bear the dates of despatch not the date of proceedings which accompany them, as heretofore, and the subordinate courts will be expected to despatch their returns within the period allowed.

Fifth. When a judge of the Court has signed a *chitteh* directing the issue of a precept, it shall be the duty of his *peshkar* to

* As the Precepts Nos. 6 and 7 and Certificate No. 8 alone refer to the crimina courts, they only have been annexed to this circular.

prepare a copy of the *roobukaree,* duly attested by his signature, together with such other papers as should accompany the same, and to send them by a *mohurrir* to the English clerk in the precept department, within seven days from the date on which the *chitteh* was signed by the judge. The *roobukaree* shall bear a list of the accompanying papers at the foot of it; and the *peshkar* shall be responsible that they are correct and complete.

Sixth. The English clerk will note on each proceeding the date of receipt, and, after preparing the precepts, will submit them for the register's signature; he will then enter them in the proper books, and will despatch them on the same day if possible; if not despatched till the next day, or later, the day of the precepts shall be altered to correspond with that of despatch.

Seventh. If the officer to whom the precept may be addressed find it impracticable to send a complete return within the prescribed period, he will transmit a proceeding, with a certificate according to the annexed forms, (Nos. 5 and 8,) stating the reason, and the additional period which he may require to carry the Court's orders into effect.*

Eighth. Such returns and certificates, when received in this office, shall, after having been endorsed and entered in the proper book, be sent by the precept clerk to the *peshkar* of the judge by whom the precept was issued, who will note on each the date of receipt, and bring it forward in the usual course.

Ninth. If the period allowed in a precept, together with the number of days occupied by the letter *dâk,* expire before a return or explanatory proceeding and certificate be received, the register shall send a letter calling for explanation within a specified term: should this term also expire without receiving a reply, the circumstance shall be brought to the notice of the judge who issued the order, for such further measures as he may deem advisable.

Tenth. The officer by whom a return or certificate may be sent will cause a list of the papers which accompany it to be written at the foot of the *roobukaree.*

Eleventh. If the papers, &c. which should accompany a precept or return are too heavy for the letter *dâk,* they shall be sent by *dâk banghy,* with a note stating the case and precept or return to which they belong; the precept or return itself with the proceedings of the Court being sent as usual by the letter *dâk.*

Twelfth. The precept clerk will, at the close of each week, submit to the register a list of unanswered precepts and letters, to which returns are due.

List of Precepts, &c.—Nizamut Adawlut.

No. 6. Precept calling for proceedings, with a return.

* See No. 174 of this Part.

No. 7. Precept requiring no return.
No. 8. Certificate to be submitted when a full return cannot be submitted within the prescribed period.

No. 6, Precept.

No. of Precept Register,———

NIZAMUT ADAWLUT.

——————, Petitioner.

To A. B., Esq.
Commissioner of Circuit, ——— Division,
(or Session Judge of Zillah———.)

PRESENT.
——*Esq.*
Judge.

Herewith you will receive a petition from——— *(if other papers are sent they will be mentioned)* and an extract from the proceedings of the Nizamut Adawlut of the —— of——, 183—, held before Mr. ———, to the orders contained in which you are required to conform; returning this precept duly executed, or good and sufficient reason why it has not been executed, with a report of what you may have done in pursuance hereof, on or before the—of———, 183—.

By order of the Court of Nizamut Adawlut,

Fort William, }
the—of———, 183—. } C. D. *Register.*

Return. (To be endorsed on the preceding.)

Court of the Commissioner of—Division (or Session Judge of Zillah ———.*)*

I, A. B., Commissioner (or Session Judge, &c.) do hereby certify, that the orders contained in this precept have been duly carried into execution.

Given under my hand and the seal of the Court, this— day of ———, 183—.

Criminal Department, }
(Division or District,) }
the — of ——, 183—. } A. B. *Commissioner (or Session Judge).*

Memorandum of papers submitted.
Here mention the papers or proceedings submitted.

No. 7, *Precept.**

NIZAMUT ADAWLUT.

——————, Petitioner.

To A. B., Esq.
Commissioner of Circuit,——Division,
(or Session Judge of Zillah———.)

Herewith you will receive for your information and guidance

* See No. 212 of this Part.

an extract from the proceedings of the Nizamut Adawlut of the— of ——, 183—, held before Mr. ———, to which you are required to conform; together with *(here mention the papers sent)*.

By orders of the Court of Nizamut Adawlut.

Fort William,
the — of ——, 183—.

C. D.
Register.

No. 8, *Certificate.*

No. of Precept Register,———

Court of the Commissioner of — Division (or Session Judge of Zillah———).

————————, Petitioner.

To the Register of the Court of Nizamut Adawlut, Fort William.

With reference to the precept of the Nizamut Adawlut, dated the — of ——, 183—, covering an extract from the Court's proceedings of the—of ——, 183—, held before Mr. ————, I hereby certify the accompanying extract from my proceedings of the— of——, 183—, containing a return to the said precept. I further certify that I propose to submit a further (or full) return on or before the —, of ——, 183—.

Given under my hand and the seal of the Court, this— day of ——, 183—.

Criminal Department,
(Division or District,)
the — of ——, 183—.

A. B.
Commissioner (*or Session Judge.*)

No. 162.

To the Commissioner of Circuit, Magistrates, and Joint-Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 20*th February,* 1835.

I AM directed by the Court to forward for your information the accompanying copy of a letter from the register of the Nizamut Adawlut for the Western Provinces to the commissioner of circuit of the 4th division.

Copy of a Letter from the Register of the Nizamut Adawlut Western Provinces, to the Commissioner of the 4th or Moradabad Division.

I am directed by the Court to acknowledge the receipt of your letter of the 3rd instant, with enclosure.

2. In reply I am directed to inform you, that under the terms of Section 2, Regulation II. 1834, assistants exercising the

special powers described in clause 3, Section 2, Regulation III. 1821, cannot in any case award a longer term of imprisonment than one month, in lieu of stripes. They are however at liberty, as in other causes in which they deem the prisoner deserving of a degree of punishment beyond their competency, to return the case to the magistrate for the issue of final orders, stating their own opinion thereon.

No. 163.

To the Civil and Criminal Authorities, Lower and Western Provinces.

Lower and Western Provinces, 27th February, 1835.

In pursuance of the orders of the Government of India, I am directed by the Court to transmit, for your information and guidance, the annexed copy of a letter from the secretary to the Government of Agra in the judicial department, under date the 7th instant.

2. In future, on the appointment of any native officer on your establishment,* whether the situation to which he may be nominated be of a judicial or ministerial nature, or connected with the police department, you will require from him a schedule of any landed property of which he may at the time be possessed, and at the same time explain to him that should he subsequently make further acquisitions of the same description, it will be incumbent on him to communicate the circumstance to you within one month from the date of the acquisition; should he fail to do so, or should it appear that he has wilfully omitted in his schedule any landed property belonging to him at the time of filing it, he will be liable to dismissal from office.

3. All such schedules, as may be filed in your Court, you will immediately transmit to the office of the collector of the district for record.†

4. You will also consider the above rule applicable to present incumbents, and will accordingly call on the officers now attached to your establishment to file a similar schedule, explaining to them the nature of the penalty attached to wilful concealment.

Copy of a Letter from the Secretary to the Governor of Agra, to the Register to the Sudder Dewanny Adawlut at Allahabad, under date 7th February, 1835.

I am directed to acknowledge the receipt of your letter, dated the 23rd ultimo, with its enclosures; and to state, that the Honor-

* See No. 166 of this Part. † See No. 170 of this Part.

rable the Governor concurs in opinion with the majority of both the Courts of Sudder Dewanny Adawlut of the two presidencies that the native officers in the judicial department should be required to file a schedule of their landed property on taking office, and to renew it on the occasion of further acquisition; that the schedule be registered in the collector's office, and that the omission to enter any portion of their property in the schedule should render them liable to dismission from office.

No. 165.

To the Commissioners of Circuit, Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 3rd April, 1835.

I AM directed by the Court to forward to you for your information and guidance, the accompanying extract, paragraph 6, from their proceedings of this date, regarding the removal of insane prisoners from *zillah* jails to the insane hospital of the division.

Extract from the Proceedings of the Court of Nizamut Adawlut at Calcutta, dated the 3rd of April, 1834.

The Court have had frequent occasion to repeat similar orders for the removal of insane prisoners to the division hospital, notwithstanding which the half-yearly reports of criminal prisoners are generally defective, in as much as they never contain any explanation of the cause of their non-transmission. It is therefore ordered, that in future whenever the magistrates have occasion to notice insane prisoners in confinement in the *zillah* jails, they distinctly state their reason for detaining them, and if any objection have been made by the civil surgeon to their removal to the division hospital. A copy of this paragraph will be circulated for the information and future guidance of the commissioners and magistrates.

No. 166.

To the Civil and Criminal Authorities, Lower and Western Provinces.

Western Provinces, 10th April, 1835.
Lower Provinces, 4th September, 1835.

IN continuation of the Court's circular of the 27th February last, (No. 163 of this Part,) I am directed to inform you, that the schedule of property therein mentioned need not be required from any native officer who receives a salary of less than 20 rupees per mensem.

No. 167.

To the Commissioners of Circuit, Session Judges, Magistrates and Joint Magistrates, Lower and Western Provinces.

Western and Lower Provinces, 15*th May,* 1835.

I am directed by the Court to transmit for your guidance the annexed form of a register of warrants to be in future kept up in your office.* In adopting this form you will be guided by the rules laid down in the note thereto annexed.

Register of Warrants.

1	2	3		4		5			6			7
Name of Prisoners.	Date of Sentence.	Term of Imprisonment.		When the sentence will be required.		Warrants when received back from jailor or magistrate.			Warrants when returned to the Nizamut Adawlut.			
		Years.	Month.	Month.	Date & Year.	Month	Date.	Year.	Month.	Date.	Year.	
Gharum,...	10th April 1826,	7	,,	April	10th,1833	April	12th	1833	,,	,,	,,	Memo. Column 6 to be omitted in Magistrate's Register.
Jubba,......	7th Aug. 1833,	Dea	th.	,,	,,	Sept.	10th	1833	Sept.	12th	1833	
Janee,......	5th Sept. 1833,	Rele	ase.	,,	,,	Sept.	12th	1833	,,	,,	,,	
Pema,......	27th Feb. 1833,	,,	6	Aug...	27th,1833	Sept	28th	1833	,,	,,	,,	
Rambuxsh,	3rd Feb. 1833,	,,	3	May...	27th,1833	May	29th	1833	,,	,,	,,	

Note.—In this register prisoners should be entered *under the year in which their sentences expire*, so that a glance over it at the end of each year will show whether any have been by neglect confined beyond their period of sentence. A memorandum of this should be made and signed by the Commissioner, Session Judges, or Magistrate at the close of each year. Prisoners sentenced to death or to imprisonment for life, should be entered *in the year in which they are sentenced.*

The register of each court should be confined to the warrants issued from that court. Warrants of Magistrates, Joint Magistrates, and Assistants to be returned by the jailor when completely executed, with an endorsement to that effect on the reverse.

* See Nos. 178 and 225 of this Part, and No. 21, Part III.

No. 168.

To the Commissioners of Circuit and Session Judges, Lower Provinces.

Lower Provinces, 22nd *May*, 1835.

EXPERIENCE having shewn that that part of the circular order of the 11th April, 1834, (No. 156 of this Part,) which requires the session judge, who may consider a commitment to have been made on inadequate grounds, invariably to communicate his opinion to the committing magistrate, has not been productive of the advantages anticipated from it; the Court have been pleased to annul it, and request that you will in future communicate your sentiments on this point to the Court alone, and in cases in which the commitments may be deemed objectionable, that you will distinctly and fully detail the ground on which you have come to this conclusion, mentioning as required by the circular, the name of the committing officer. The Court, after calling for explanation in instances in which it may appear necessary, will thus be enabled themselves to accomplish the object in view, by pointing out such cases as may, in their opinion, really call for notice to the attention of the committing officer, with such observations as may be deemed applicable, for his future guidance.*

No. 169.

To the Civil and Session Judges and Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 29th *May*, 1835.

DOUBTS appearing to be entertained as to the authority by which persons charged with the commission of perjury in the civil courts, or before a session judge, are to be committed and tried, I am directed by the Court to communicate to you the following instructions.

2. In cases of perjury in the civil courts, (whether before the judge or a subordinate court,) the commitment should, according to clause 2, Section 14, Regulation XVII. 1817, be made by the judge; who will, at the same time, determine whether the persons charged are to be admitted to bail or kept in custody; the duty of the magistrate being confined to causing the attendance of the parties and witnesses before the court by whom the case is to be tried. When the civil judge has made a commitment, he

* See Nos. 36 and 57, Part III.

cannot try it in his capacity of session judge; it must be tried by the commissioner of the division.*

3. In perjuries before a session judge, he is at liberty, under Section 6, Regulation II. 1807, to direct the magistrate to commit the offenders for trial, and immediately to proceed to the trial of the case himself.

No. 170.

To the Civil and Criminal Authorities, Lower and Western Provinces.

Western Provinces, 29th May, 1835.
Lower Provinces, 3rd July, 1835.

In continuation of the circular order of the 27th February last, (No. 163 of this Part,) the Court hereby direct that the schedule required by that circular order shall include, not only land the proprietary right of which may be vested in the public officer to whom it may relate, but any land or other real property, whatever may be the nature of the tenure by which he may hold it, the description of tenure being also recorded in the schedule.

2. (Western Provinces.) These schedules will be registered in the office of the collector of the *zillah* in which the officer may be employed; and copies of the same sent to the collectors in whose *zillahs* the property therein included may be situated.

2. (Lower Provinces.) The schedule will be registered in the office to which the individual giving it in may be subordinate; and copies will be sent to the collectors in whose districts the property specified may be situated.

No. 171.

To the Civil and Criminal Authorities, Lower and Western Provinces.

Lower and Western Provinces, 3rd July, 1835.

I am directed by the Court to transmit to you, for your information and guidance, the accompanying extract from a letter from the secretary to the Government of Bengal, dated the 16th ultimo, regarding the security required from native officers who hold situations of pecuniary responsibility.†

* Partly superseded. See No. 17, Part III, and it rests with Government to determine where the case shall be tried.

† See No. 216 of this Part.

Extract (part of paragraph 1) from a Letter from the Secretary to the Government of Bengal, dated the 16th June.

The object of the Honorable the Court of Directors will be sufficiently attained if the Court satisfy themselves, annually, that the officers subject to their jurisdiction have severally instituted the necessary inquiries to establish the validity of the security furnished by those of their subordinates, who hold situations of pecuniary responsibility. But it should be distinctly explained to all the functionaries who are required to furnish this annual report, that when they vouch for the sufficiency of the security in each case, they thereby render themselves responsible for the safety of the public funds committed to the charge of their ministerial officers, and that they will be held accountable for any insufficiency of security which may subsequently be experienced.

No. 172.

To the Commissioners of Circuit, Session Judges, Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower Provinces, 10th July, 1835.
Western Provinces, 12th June, 1835; 7th August, 1835.

In consequence of the recent attack made on a magistrate by a prisoner in open court, I am directed to request that you will take proper measures to prevent all persons (whether prisoners or others), except the guards on duty, from wearing arms within your *cutchery*.

No. 173.

To the Commissioners of Circuit, Magistrates, Joint Magistrates and Principal Assistants, Western Provinces.

Western Provinces, 17th July, 1835.

I am directed by the Court to transmit, for your information and guidance, the annexed copy of a letter from the secretary to Government, judicial department, under date 7th instant, with copy of its enclosure.

2. You will be careful in general not to exceed the power vested in you by the regulations and circular orders in force as regards the offer of rewards for apprehension. In extreme cases, which will not admit of the delay attending a reference to a higher authority, should such a measure be found absolutely necessary, it should be immediately reported for the sanction of the officer duly authorized to make the offer which may have been tendered.*

* See Act XVI. 1843.

Copy of a Letter from the Secretary to the Government of Agra to the Register of the Nizamut Adawlut at Allahabad, under date the 7th July, 1835.

I am directed by the Honorable the Governor to transmit to you the annexed extract (paragraph 14) from a despatch from the Honorable the Court of Directors, dated the 3rd December, 1834, and to request that the Court will issue such orders as will put a stop to the practice noticed by the Honorable Court.

Extract from a Despatch from the Honorable the Court of Directors, dated the 3rd December, 1834 *in the Judicial Department.*

PARA. 14. We are glad to be informed of the apprehension of two sirdar *dacoits* for which rewards of 500 and 200 rupees respectively had been offered. We trust, however, that a stop has been put to the practice of disbursements (especially on so great scale) being made by subordinate officers, not only without the previous sanction of Government, but without even any intimation that such an authority had been assumed.

No. 174.

To the Commissioners and Civil and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 17th July, 1835.

WITH a view to obviate the delay which occurs in registering certificates containing partial returns to the Court's precepts, in consequence of their not bearing the Nos. of the precept register, which are always to be found in the precepts themselves; I am directed to request that you will in future, in addition to the No. of the causes in which the precept is issued and the names of the parties, invariably insert the No. of the precept register agreeably to the accompanying form,* whenever you may have occasion to transmit such certificate in reply to precepts issued since the 1st of April last.

No. 175.

To the Criminal Authorities, Lower and Western Provinces.

Lower and Western Provinces, 24th July, 1835.

I AM directed by the Court to forward to you, for your information and guidance, the accompanying copy of a letter written by order of the Court of Nizamut Adawlut at Calcutta on the 19th

* The manner in which the No. of the precept register is to be entered is shewn in the form to certificate, No. 8, appended to No. 160 of this Part.

ultimo to the Secretary to Government of Bengal, and of e reply, dated the 7th instant, declaring session judges competent to order a magistrate to commit any person or persons, (connected with a trial pending before them,) whom the magistrate has not thought fit, or objects, to bring to trial.*

Copy of a Letter from the Register of the Nizamut Adawlut at Calcutta to the Secretary to the Government of Bengal, dated 19th June, 1835.

I am directed to state for the information of the Honorable the Governor of Bengal that doubts have been entertained, whether, with reference to Section 5, Regulation VII. 1831, a session judge is competent to order a magistrate to commit a person, (in a trial pending before him,) whom the magistrate has not thought fit, or objects, to bring to trial. The Court are decidedly of opinion, that this power ought to be vested in the session judges, and accordingly beg to suggest that their competency to exercise it be specially declared in the manner prescribed by Act VII. 1835.

Copy of a Letter from the Secretary to the Government of Bengal to the Register of the Nizamut Adawlut at Calcutta, under date the 7th July, 1835.

In reply to your letter of the 19th ultimo, I am directed by the Honorable the Governor of Bengal to request that you will inform the Court, that in compliance with their recommendation in the propriety of which he entirely concurs, he is hereby pleased, under Act No. VII. 1835, to declare all session judges, or other officers exercising the powers of session judges, competent to order a magistrate to commit any person or persons, (connected with a trial pending before them,) whom the magistrate has not thought fit, or objects, to bring to trial.

No. 177.

To the Commissioner of Circuit and Session Judges, Western Provinces.

Western Provinces, 14th August, 1835.

I AM directed by the Court to transmit for your information and guidance the annexed extract, paragraphs 2 and 3, of a letter addressed by their order, under date the 24th ultimo, to the secretary to Government in the judicial department, and pa-

* See No. 123, Part III.

ragraph 1 of that officer's reply, dated the 5th instant; relative to the duties to be performed by the commissioners of circuit and session judges respectively in those districts into which the provisions of Act VII. of the current year have been introduced.

Extract of a Letter from the Register of the Court of Nizamut Adawlut at Allahabad to the Secretary to the Government of Agra in the Judicial Department, dated 24th July, 1835.

PARA. 2. The Court are desirous of learning the intention of the Government with regard to the course of appeals in cases of the nature described by Mr. Begbie, viz. appeals from orders for the removal of ministerial and police officers on the establishment of the magistrate and collector, who are also employed in the revenue department. The Act of the Legislature, No. VII. of 1835, renders the point more doubtful by transferring the appeal duties of the commissioners to the session judges, and the difficulty of deciding is heightened by the extremely ambiguous terms of Section 3, Regulation IX. 1831. The last mentioned regulation is believed to have been intended to reserve to the commissioners all miscellaneous cases whatever, including cases under Regulation XV. 1824. Should this be the right interpretation, as the appeal under that enactment (Regulation IX. 1831,) lies to the commissioner in his capacity of superintendent of police, the late law does not affect it; the appeal to the session judges under the present system extending only to cases in which a trial has been held.

3. With regard to the removal of native officers in whom revenue and police functions are combined, the appeal should apparently lie in either case to the commissioner, unless a regular criminal trial has been held; in which case, as above stated, it would lie to the session judge; any ministerial officers employed indiscriminately in the departments of revenue and the administration of criminal justice would follow the same course in seeking redress in appeal.

Extract of a Letter from the Secretary to the Government of Agra in the Judicial Department to the Officiating Register of the Nizamut Adawlut of that Presidency, dated the 5th August, 1835.

PARA. 1. I am directed to acknowledge the receipt of a letter from the register, dated the 24th ultimo, with its enclosure; and to request, that you will inform the Court that the Honorable the Governor is of opinion that all appeals of the nature described in the 2nd and 3rd paragraphs of Mr. Jackson's letter, should lie to the commissioner, and not to the session judge.

No. 178.

To the Commissioners of Circuit, Session Judges, Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 21st August, 1835.

WITH reference to the Court's circular letter under date the 15th May last, (No. 167 of this Part,) transmitting for your guidance a new form of a register of warrants, I am directed to request you will discontinue the old register which was kept up under the circular orders of the 1st May, 1829, (No. 23 of this Part.)

No. 179.

To the Civil and Criminal Authorities, Lower and Western Provinces.

Lower and Western Provinces, 25th September, 1835.

IT having occasionally been pleaded by civil functionaries, who have recently joined their offices, in answer to calls by the Court for replies to letters, and for periodical statements overdue, that, not having had time to look into their records, they were not aware that the replies or statements had not been sent; the Court have been pleased to resolve, that all judges, commissioners, magistrates, and joint magistrates, on delivering over charge of their offices, shall furnish the officer who relieves them with a list of all unanswered letters, and of all periodical reports and statements which, having become due, have not been forwarded to the Court.

2. Periodical reports and statements will be considered as due immediately on the expiration of the month, quarter, half year, or year, to which they relate.

No. 181.

To the Commissioners of Circuit and Session Judges, Western Provinces.

Western Provinces, 2nd October, 1835.

I AM directed by the Court to transmit for your information and guidance the annexed extract, paragraph 2, of a letter from the secretary to Government in the judicial department, under date the 15th ultimo, and to request, that as far as circumstances may admit, you will conform to the rule contained therein, by

availing yourself, in the trial of such cases, of the assistance of a jury under the provisions of Regulation VI. of 1832.

Extract of a Letter from the Secretary to Government in the Judicial Department to the Officiating Register of the Nizamut Adawlut, Agra Presidency, dated the 18th September, 1835.

PAR. 2. The Government is of opinion that trials, in which the religious prejudices of Mahomedans or any other class are concerned, ought in all possible cases to be conducted without the Mahomedan law officer. A *futwa* on any point of Mahomedan law may, if necessary, be required, without the attendance of the law officer on the trial.

No. 182.

*To the Magistrates and Joint Magistrates, Western Provinces.**

Western Provinces, 16*th October,* 1835.

SEVERAL of the magistrates having reported that considerable inconvenience is experienced in their offices from the great accumulation of old and useless records, which are too voluminous to be contained in their record rooms, and only impede a reference to that portion which is of real utility; the Court have determined, that where such inconvenience is actually felt, a portion of the records shall be burnt at the discretion of the magistrates, subject to the following rules.

2. The magistrates of the *zillahs* enumerated in the margin† having stated that there is no want of room in their record offices, they will not of course act upon this order, which is not intended to require that any portion of the records should be destroyed, but merely to point out what portion may be so disposed of where such a measure is absolutely necessary.

RULES.

1. All records of investigation on trial, in cases in which any of the accused may appear to have escaped apprehension, to be preserved.

2. All records of cases decided under the provisions of Regulation XV. of 1824, and generally of cases of disputed possession of immoveable property, which may be required, at some future period, by the courts of civil judicature as evidence, or for other purpose in the investigation of claims to the proprietary right in such property, to be carefully preserved.

* This circular has been retained, as it may again be referred to by the Court when directing records to be destroyed.

† Azimgurh, Belah, Bijnore, Budaon, Bundlekund, N. D., (Humeerpoor), Delhi, Ghazepoor, Goorgaon, Muttra, Rohtuck.

3. Of the papers prior to and from 1820 to 1830 inclusive all records of cases of petty theft, assault, slight affray, trespass, abusive language, and such like, and all miscellaneous reports received from the *thannahs*, or from the ministerial officers, be destroyed.

4. In the remaining criminal trials up to the same period, the following papers be destroyed, viz.

First. The whole of the depositions taken before the *thannadar* or other police officer, with exception to the prisoner's reply.

Second. All *moochulkas* taken at the *thannah* from prosecutors and witnesses, binding themselves to attend at the magistrate's court to give evidence in the case in which they were executed, as well as those of a similar nature taken by the magistrate in cases committed to the sessions, or from parties obliging themselves to remain in attendance at this *cutcherry* until their cases have been disposed of.

Third. All *purwannahs* addressed to the *thannadars* during the progress of a criminal trial, summoning witnesses, and the replies thereto, as well as the daily reports which those officers are required by some magistrates to submit in each case, until the apprehension of the persons supposed to have been concerned, and the despatch of the *kyfeeut-i-moofussil*, in which the substance of such reports is usually given. The following papers, which will then form the record of a criminal trial, will be preserved, viz. The list which is annexed to each *thannah* report, shewing what papers accompany it; the detailed *thannah* report, or *kyfeeut-i-moofussil*; the *sooruthal*; the *nugsha-i-waridat*; the prisoner's reply; the *chulans* of prisoner's property and witnesses, and the magistrate's proceedings divested of the papers enumerated above.

5. By the general and careful adoption of this last rule to the fullest extent of which it will admit, the records of every magistrate's office will at once be diminished in a material degree, and the removal from each *misl*, or bundle of proceedings, of all superfluous and useless papers according to the foregoing instructions, while it will not in any way impair its value as evidence on any future occasion to prove either previous convictions, or bad character, or for any other purpose, will, at the same time, reduce it to a convenient size and shape, admitting of ready reference to those parts of it which contain really useful information.

6. Care should be taken that all documents or deeds of any value, which may have been put up with the records of cases liable to be burnt under the foregoing rules, be first removed, and that no papers having the seals or signature of public officers are carried away by private individuals.

No. 183.

To the Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 20th November, 1835.

With a view to facilitate the verification of the statements of convicts sentenced to banishment and transportation, and to expedite the removal of convicts to their place of banishment, the following rules have been passed for the guidance of the magistrates, in modification of those contained in the circular order of the 18th July, 1828,* and you are requested strictly to observe them.

2. I am, at the same time, directed to request that no prisoner under sentence of transportation beyond sea, or perpetual or temporary imprisonment in banishment, though the place in which he is to undergo his imprisonment be mentioned in the sentence, be removed from the jail of your district until the receipt of the Court's orders on the application for his removal, which you are required to submit in the form herein prescribed.†

3. The magistrates will submit separate statements of convicts sentenced by the session judges or commissioners, and by the Nizamut Adawlut, according to the following forms, A, B, and C.

4. Statement A will be prepared and submitted to this Court after the expiration of 35, but within the period of 46 days, from the end of the month in which the sentences were passed. The magistrate will be careful not to include in the same statement convicts sentenced at the jail deliveries of different months.

5. In the event of the issue of a warrant including a sentence of banishment being suspended in any case, under the rule contained in the 6th clause of Section 4, Regulation IX. 1831, the magistrate will submit a statement in form B, within 15 days after the receipt of the warrant.

6. Statement C will be prepared and submitted within 15 days from the receipt by the magistrate of the warrant of the session judge or commissioner, for carrying into effect the sentence of the Nizamut Adawlut.

7. Whenever a magistrate may have occasion, in consequence of the crowded state of his jail, to apply for permission to remove convicts not sentenced to banishment to another district, he will be pleased to submit statements in form as similar to these as possible, keeping the prisoners sentenced by the session judges or commissioner separate from those sentenced by the Nizamut Adawlut.

* This circular supersedes that of the 18th of July, 1828, which has therefore been omitted.

† The Report should be made to Government, and not to the Court of Nizamut Adawlut. See No. 180 and No. 192, Part III. and letter from the under-secretary to Government in the Appendix.

FORM A.

Statement of Convicts sentenced by the Session Judge or Commissioner, without reference to the Nizamut Adawlut, to imprisonment in banishment at a jail delivery of—————for the month of————, 183—.

1	2	3	4	5	6	7	8
No.	Names of convicts.*	Caste.	Age.	Crime.	No. of each convict in the jail delivery statement No. 1.	Date of sentence of session judge or commissioner.	Sentence.

FORM B.

Statement of Convicts sentenced by the Session Judge or Commissioner, without reference to the Nizamut Adawlut, to imprisonment in banishment at a jail delivery of—————for the month of————, 183—.

1	2	3	4	5	6	7	8	9
No.	Names of convicts.*	Caste.	Age	Crime.	No. of each convict in the jail delivery statement No. 1.	Date of sentence of session judge or commissioner.	Date of receipt by the magistrate of the warrant of the session judge or commissioner.	Sentence

* The name of the convict's father should also be inserted. See No. 204 of this Part.

FORM C.

Statement of Convicts sentenced by the Nizamut Adawlut to temporary imprisonment in banishment, or to perpetual imprisonment in the jail at Alipoor, or transportation beyond Sea.

1	2	3	4	5	6	7	8
No.	Names of convicts *	Caste.	Age.	Crime.	Date of sentence of Nizamut Adawlut.	Date of receipt of warrant of session judge or commissioner for carrying the sentence into execution.	Sentence.

No. 184.

To the Civil and Criminal Authorities, Lower and Western Provinces.

Lower and Western Provinces, 27th November, 1835.

As the practice of numbering letters, which obtains in the office of the secretaries to Government, in this office, and in some of the offices in the interior, is not universally adopted, and as it has been found, where it obtains, useful in facilitating references to letters, without the necessity of recapitulating the subject of them; I am directed by the Court to request that you will, from the commencement of the ensuing year, number all that may be despatched from your office, in one continued series, from the commencement to the close of the year.†

No. 185.

To the Commissioners of Circuit, Session Judges, Magistrates and Joint Magistrates Western Provinces.

Western Provinces, 27th November, 1835.

7. The Court observing that some of the magistrates are in the habit of committing prisoners on the charge of "affray with

* The name of the convict's father should also be inserted. See No. 204 of this Part.

† The remainder of this circular referred only to civil judges and has therefore been omitted.

murder;" I am directed to acquaint you that the charge should be made to correspond with the heading in the statement "affray with homicide;" unless there be any aggravating circumstance rendering it doubtful whether the killing did not amount to "murder;" in which case the commitment should be for that offence; the charge of "affray with homicide" furnishing a second count.*

No. 186.

To the Commissioners of Circuit, Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 13*th December*, 1835.

Doubts appearing to be entertained as to whether the provisions of Section 5, Regulation VII. 1819, are applicable to the enforcement of contracts for furnishing hackeries and bullocks under engagements to indigo planters, I am directed to inform you, that it has been ruled by the Courts of Nizamut Adawlut, that the provisions of the regulation quoted are not applicable to such contracts†.

No. 187.

To the Criminal Courts, Lower and Western Provinces.

Lower and Western Provinces, 24*th December*, 1835.

I am directed by the Court to forward for your information and guidance, the accompanying copy of a letter addressed on the 20th ultimo to the Secretary to the Medical Board, and of that officer's reply dated the 27th ultimo, on the subject of the explanations to be furnished in future of the mortality among prisoners confined in the jails.

2. The commissioners, and session judges, to whose districts the provisions of Act VII. of 1835, have been extended, will require the magistrates and joint-magistrates in charge of jails and the civil surgeons to submit explanations when the number of deaths exceeds one per cent. per mensem. When prisoners may be employed on the roads of the district, who are, when sick, sent into the *zillah* jail hospital, they should be included in the monthly statement No. 5, and in the half-yearly report No. 24,

* The preceding paragraphs as well as those that followed referred only to statements and have therefore been omitted.

† See No. 197 of this Part.

with a note shewing how many are brought back at night to the *zillah* jail, and how many are cantoned in the district, and under whose authority the latter are worked.

Copy of a Letter from the Register of the Nizamut Adawlut at Calcutta to the Secretary to the Medical Board, under date the 20th November, 1835.

I am directed by the Court to forward to you the accompanying copy of a circular letter, addressed by their order on the 13th September, 1822, to the courts of circuit, directing them to call on the magistrates to explain the causes of mortality when the number of deaths in the jail of any district exceeds 5 in one month.

2. Instead of this fixed number, which has no reference to the number of prisoners confined in the jail, the Court think it would be more satisfactory to fix a certain rate per cent. as the limit beyond which it should be imperative on the magistrate and civil surgeon to furnish an explanation respecting the causes of the increased mortality. They therefore direct me to request that the Board will favor them with their opinion as to what, in an ordinary year, might be considered, through the different seasons, a fair proportion of deaths among 100 prisoners of all descriptions confined in the jails of the Bengal Presidency.

Copy of a Letter from the Secretary to the Medical Board to the Register of the Nizamut Adawlut at Calcutta, under date 27th November, 1835.

I am directed by the Medical Board to acknowledge the receipt of your letter dated the 20th instant, with its annexed document, relative to the mortality in jail hospitals.

2. In reply, the Board beg you will acquaint the Court of Sudder Nizamut, that in their opinion the medical officers in charge of jails might be called on for an explanation, or special report, whenever the mortality during any one month may exceed one per cent.

3. Six per cent. per annum the Board are inclined to think would be a high rate of mortality in jails generally, but as explanation would not of course be required except in cases in which the mortality exceeded the ordinary rate, the Board are inclined to think, that the rate of one per cent. per mensem may be judiciously adopted.

No. 191.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 15th January, 1836.

SEVERAL applications having lately been made to the Court for the return of proceedings in criminal trials, referred to or called for by them; I am directed to request your attention to Section 2, Regulation X. 1799, re-enacted for the ceded provinces by Section 41, Regulation VII. 1803, and to desire that whenever you may hereafter have occasion to refer a trial for the orders of the Nizamut Adawlut, as well as in cases called for by the Court, you will submit copies only of your own proceedings, retaining the original for record in your office.*

2. The magistrate's proceedings, which are always returned with a copy of the Court's sentence in the case, will continue to be submitted in original as heretofore; due regard being had to the rules contained in the circular orders of the 16th July, 1830, paragraph 6, and 3rd June, 1831. (Nos. 54 and 84 of this Part.)

No. 192.

To the Civil Judges, and Commissioners of Revenue and Circuit, Lower and Western Provinces.

Lower and Western Provinces, 5th February, 1836.

I AM directed by the Court to forward, for your information and guidance, the accompanying copy of a letter addressed by their order on the 8th ultimo to the secretary to the Government of Bengal, and of his reply under date the 8th ultimo, prohibiting in future the appointment of the same person to hold the office of Mahomedan law officer and principal sudder ameen, sudder ameen, or moonsiff.†

Copy of a Letter from the Register of the Sudder Dewanny Adawlut at Calcutta, to the Secretary to Government in the Judicial Department, under date the 8th January, 1836.

It being very frequently urged by such of the principal sudder ameens, sudder ameens, and moonsiffs, as hold at the same time

* The original proceedings of the sessions courts are now usually sent in appealed cases.

† Partly superseded. See a circular order, dated 23rd August, 1844, issued by the Sudder Dewanny Adawlut intimating that a Mahomedan law officer *may* be appointed a Sudder Ameen or Moonsiff.

the office of Mahomedan law officer in the zillah courts, that they are not able to decide the prescribed number of regular suits or to dispose of an adequate portion of miscellaneous business, owing to their having been employed during a portion of the month in the duties of the session court; I am directed by the Court to bring the subject to the notice of the Honorable the Governor of Bengal, and to suggest, that, in future, the situation of native judge, of whatever grade, shall not be held conjointly with that of the Mahomedan law officer of the court.

2. With regard to present incumbents, the Court do not propose to recommend that they should be deprived of their situations, unless it should be clearly shewn, that the junction of the two offices has retarded the administration of the civil justice, and is otherwise prejudicial to the public service. In the case of a moonsiff, the Court will, under the above circumstances, call upon the officer to resign one or other of the situations; and should such a contingency occur in the case of a principal sudder ameen or sudder ameen, the Court will bring the circumstance to the direct notice of Government.

Copy of a Letter from the Secretary to the Government of Bengal to the Register of the Sudder Dewanny Adawlut at Calcutta, under date 26th January, 1836.

I am directed to acknowledge the receipt of your letter, dated the 8th instant, and to request that you will inform the Court, that the Honorable the Governor of Bengal entirely approves their suggestion, that in future the situations of native judge of whatever grade, shall not be held conjointly with that of the Mahomedan law officer of the zillah courts.

2. The Court are requested to issue the necessary orders accordingly.

No. 193.

To the Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 12th February, 1836.

Instances having occurred of assistants in charge of the office of session judge forwarding statements of prisoners punished without reference, or acquitted by the session with the columns of "explanation and remarks" left blank, in consequence of the absence of the session judge on leave; the Court direct that in future the session judges will, in all possible cases, prepare the statements before they avail themselves of their leave, or furnish the assis-

tant with a certificate of the cause of their inability to do so, to be submitted with the statements.

No. 194.

To the Civil and Criminal Authorities, Lower and Western Provinces.

Western Provinces, 4th March, 1836.
Lower Provinces, 20th May, 1836.

I AM directed by the Court to transmit for your information and guidance, the accompanying copies of a letter and of its enclosure from the secretary to the Government of Agra in the judicial department to the register of the Court of Sudder Dewanny and Nizamut Adawlut at Allahabad, under date the 24th February last.

Copy of a Letter from the Secretary to the Government of Agra to the Officiating Register of the Sudder Dewanny Adawlut at Allahabad, under date the 24th February, 1835.

I am directed by the Honorable the Governor to transmit to you, for the information and guidance of the Court, and of the officers subordinate to their authority, the annexed extract (paragraphs 32 to 36) from a letter from the Honorable the Court of Directors, No. 19, dated 27th May, 1835, defining the cases in which a demand ought to be made for the surrender of refugees, and regarding the cognizance of civil claims against independent chiefs.

Extract of a Letter from the Honorable the Court of Directors, No. 19, dated the 27th May, 1835.

PARA. 32. You appear to us to have taken, on the whole, a sound view of these questions on the subject of the mutual surrender of fugitives. "The rule," you say, which it "is "the wish of the Supreme Government to establish, is, to con-"fine our requisitions for the surrender of refugees, and our "compliance with those of our neighbours, to the case of heinous "offenders, such as murderers, highway robbers, &c., leaving "the privilege of asylum inviolate as regards debtors, defaulters, "and civil and petty offenders of every kind; and the same rule "ought of course to be observed, where we have occasion to "interfere to regulate the intercourse of different native states "between each other." Your local agents, guided by the spirit of these instructions, will be entrusted with a certain discretion

as to the particular cases, or classes of cases, in which requisitions for the surrender of criminals shall be made or complied with. The feelings of the particular native government, the character of its institutions, and the general equity or oppressiveness of its rule, may often require to be adverted to in the determination of such questions. But the practice, whatever it be, should, unless there be very strong reasons to the contrary, be strictly reciprocal.

33. Your instructions to Mr. Hodgson, occasioned by the case of the stamp *darogah,* supposed to have fled into Nepaul, were consistent with the above observations, and have our approbation.

34. We have, on former occasions, intimated to you our opinion, that, except under peculiar circumstances, it is no less unadvisable to claim from other states our own revenue defaulters than to surrender theirs. We consider the abandonment of their native villages by the established cultivators as a sure indication of over-assessment or of oppression demanding the early interference of the local European authorities.

35. The non-surrender of revenue defaulters is, in point of fact, a check against the continuance of any long period of such over-assessment and oppression.

36. With regard to the interference, whether of our tribunals, or of our political officers, in civil cases against subjects of independent chiefs, you have adopted the sound principle, that the complainant must be left to seek justice from the legitimate superior of the party against whom his claim is preferred, unless that party be resident or possess property within our territories. It was no less proper to interdict our officers from taking cognizance of civil claims preferred against independent chiefs, whether by their own subjects or by others, or of cases of any description between independent chiefs and persons residing or possessing property in their dominions. Interference may sometimes be unavoidable, in consequence of general mal-administration; but it seldom can be justified in individual cases, unless where the sufferer is entitled to our protection by some positive engagement.

No. 196.

To the Criminal Authorities, Lower Provinces.

Lower Provinces, 15*th April,* 1836.

I am directed by the Court to transmit to you for your information and guidance, the accompanying copy of a resolution of the Court of this date regarding the heading under which persons charged with killing thieves should be entered in the monthly criminal statement No. 1, (prescribed by the C. O. of 12th December, 1834.)

Resolution of the Calcutta Court of Nizamut Adawlut, under date the 15th April, 1836.

The Court have had before them letters from the session judges of Sarun and Behar, dated the 21st ultimo, with their enclosures from the magistrates of those districts, explaining why cases of "killing thieves" were entered in the detail of miscellaneous crimes of the statement No. 1, of the circular order of the 12th December, 1834, they are of opinion that such cases should be entered in the body of the statement under the fourth head, "homicide not amounting to murder." As however it is necessary that information should be given as to the extent which this species of homicide prevails in the several districts, the magistrate should specify any cases of this nature which may occur by a note on the fourth head of crimes. The same remark applies equally to similar entries on statements Nos. 12, 18, 20 and 21 of the circular order, 12th December, 1834, (Nos. 13, 18, 20 and 21 of circular order, 17th July, 1835, for the Western Provinces.)*

No. 197.

To the Commissioners of Circuit, Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 20th May, 1836.

In continuation of my letter of the 18th December last, (No. 186 of this Part,) I am directed by the Court to inform you that the provisions of Section 5, Regulation VII. 1819, are considered applicable to the driver of a hackery and cattle, which are his own property, who engage therewith to perform certain work, and wilfully neglects or refuses to fulfil his engagement.

No. 198.

To the Commissioners of Circuit and Session Judges, Lower Provinces.

Lower Provinces, 27th May, 1836.

I am directed by the Court to forward for your information and guidance, the accompanying copy of a letter addressed by their order on the 15th ultimo, to the secretary to the Government of

* This circular and No. 199 have been retained with reference to the explanation in No. 200 of this Part, containing a rule of practice, but the statements and circulars referred to have all been superseded.

Bengal, and of the secretary's reply, dated the 3rd instant, defining the powers transferred from the commissioners of circuit to the session judges under the provisions of Act VII. of 1835.

2. In the event of any appeals of a miscellaneous nature having been made over by the commissioner to the session judge, or admitted by the latter officer, he will immediately re-transfer them to the commissioner, who will try and determine them as heretofore.

Copy of a Letter from the Register of the Nizamut Adawlut at Calcutta, to the Secretary to Government at Bengal in the Judicial Department, under date the 15*th April,* 1836.

I am directed by the Court to submit an extract (paragraph 1,) from a letter from the commissioner of circuit of the 18th division, dated the 16th ultimo, and copy of one from the same officer, dated the 28th ultimo, requesting information as to the extent of the powers transferred under the provisions of Act VII. 1835, from the commissioners of circuit to the session judges; in reference to which the Court wish to be informed whether by the terms "the whole of the duties connected with criminal justice" made use of in the Government orders extending the provisions of the Act to any district under this presidency, it was the intention of Government to vest the session judges with power to receive and determine appeals from the orders of the magistrates in all cases whatsoever, or merely in regular criminal trials not coming within the denomination of cases of a miscellaneous nature in which the cognizance of this Court is barred by the provisions of Section 3, Regulation IX. 1831.

2. The Court further request to be informed whether appeals from police and other officers, subject to the authority of magistrates who have been removed from their situations, are cognizable by the session judges, or by the commissioners; and whether the session judges are to be considered competent to direct the dismissal of such officers, when, in proceedings on appeals, they may consider this measure called for.

3. A circular letter was issued on this subject by the Western Court under date the 14th August, 1835, (No. 177 of this Part,) but it does not altogether meet the question, as the police officers in the districts under this presidency are not employed in the revenue department as they are under the Agra Presidency.

Copy of a Letter from the Secretary to the Government of Bengal to the Register of the Nizamut Adawlut at Calcutta, under date 3*rd May,* 1836.

I am directed to acknowledge the receipt of your letter dated

the 15th instant with its enclosures, and to inform you in reply that the Right Honorable the Governor of Bengal is of opinion that Section 3, Regulation IX. 1831, which the legislature certainly did not intend to supersede by Act No. VII. 1835, limits the jurisdiction transferred from commissioners of circuit to session judges under the last mentioned enactment to appeals from judicial sentences passed by magistrates upon persons charged with criminal offences.

2. In respect to police and other officers subject to the authority of magistrates, his Lordship apprehends that the jurisdiction of a session judge is in no respect increased or altered by the transfer to him of the duties referred to in the foregoing paragraph. When he may consider the dismissal of a police officer necessary, he should be guided by the rules laid down in Section 10, Regulation VII. 1831.*

No. 199.

To the Criminal Authorities, Western Provinces.

Western Provinces, 27th May, 1836.

I AM directed by the Court to transmit for your information and guidance, the annexed resolution adopted by the Calcutta Court of Nizamut Adawlut under date the 15th ultimo, regarding the heading under which persons charged with "killing thieves" should be entered in the monthly and annual criminal statement No. 1; and to request that in cases of that nature wherein the offence may not, in your opinion, amount to the crime of murder, you will observe, the rule contained in the Calcutta Court's resolution. A similar note should be given of all such cases, which, in consequence of the aggravated nature of the offence, may be entered under the heading of "murder." (For the Resolution, see No. 196 of this Part.)

No. 200.

To the Criminal Authorities, Lower Provinces.

Lower Provinces, 8th July, 1836.

WITH reference to my circular letter of the 15th April last,

* In the Lower Provinces, the reference, whether for the dismissal of a police officer, or restoration of one unjustly removed, would have to be made to the superintendent of police.

(No. 196 of this Part,) I am directed to request that you will not consider the rules therein contained as barring the commitment of persons accused of "killing thieves" on a charge of wilful murder, should the aggravated circumstances of the case render such commitment in the magistrate's opinion just and proper. In such a case the crime should be entered in the statements under the head of "murder," with a note stating that the person killed was a thief slain in the act of committing a burglary or theft as the case may be.

No. 204.

To the Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 23rd September, 1836.

WITH a view to facilitate references in this office, I am directed by the Court to request that in submitting applications for the removal of convicts under sentence of transportation or imprisonment in banishment, agreeably to the rules laid down in the circular order of the 20th November, 1835, (No. 183 of this Part,) you will invariably insert in the statements thereby required, the name of each prisoner's father.

No. 207.

To the Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 14th October, 1836.

THE Court having reason to believe, that it is the practice in some districts to restrict the issue of blankets to those prisoners, whose remaining term of imprisonment exceeds six months; direct me to inform you that all prisoners in confinement during the cold season should be furnished with blankets; but prisoners, confined for short periods, when discharged, should be required to give them up. The returned blankets, unless rendered unfit for use, should be re-issued to other prisoners in similar predicament. The Court also direct me to observe, that blankets should invariably be issued on or before the 15th October.*

* See No. 93, Part III.

No. 211.

To the Criminal Authorities, Lower and Western Provinces.

Lower and Western Provinces, 28*th October*, 1836.

THE Court deeming it desirable that the calendar of commitment, in cases of forgery, embezzlement and the like, should contain a list of all the written documents produced before the court of the session judge or commissioner, as evidence for or against the prisoner, are pleased to direct, that on all future occasions an accurate list of them be therein recorded and submitted to the session judge.

No. 212.

To the Civil and Session Judges, Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 4th November, 1836.

WITH a view to secure uniformity in respect to the form of communications to the Court, connected with their precepts not requiring returns, but in which the zillah judge may wish to communicate to the Court some information or remarks, or in which further instructions may be requisite; I am directed by the courts of Sudder Dewanny Adawlut and Nizamut Adawlut to transmit to you the accompanying form (No. 9) for adoption whenever you may find it necessary to make references to them, connected with the precepts in question.

FORM.

No. 9, *Certificate.*

To the Register of the Court of Sudder Dewanny (or Nizamut) Adawlut,

Fort William (or Allahabad).

*—— *versus* ——

With reference to the precept of the ——— Adawlut, not requiring a ——— return, dated the—of———, conveying an extract of the Court's proceedings of the—of ———, held before Mr.———, in the case noted in the margin.* I hereby certify the accompanying extract from my proceedings of the—of ———. *(Here briefly state the object of the reference.)*

Given under my hand and the seal of the Court, this— day of ——— 183—.

——— *Adawlut*, *the—of*——183—.

A. B.
Judge, (or as the case may be.)

No. 213.

To the Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 18th November, 1836.

I AM directed by the Court to call your attention to Section 12, Regulation XVII. 1817, and to request that all prisoners sentenced to imprisonment for life may, unless specially exempted by the orders of the Court, be properly marked on their foreheads by the process of Godena; and that in submitting your application for their removal to the Allipore or other jail, you will certify that they have been so marked.*

2. The superintendent of the Allipore jail will be requested to report to the Court the cases of any prisoners who may be received from the different zillahs not duly marked, and he will likewise be directed to renew the inscriptions if defaced or illegible.

No. 214.

To the Criminal Authorities, Lower and Western Provinces.

Lower and Western Provinces, 25th November, 1836.

I AM directed to transmit to you for your information and guidance the accompanying copy of a letter addressed by order of the Court of Nizamut Adawlut for the Agra presidency under this date to the officiating commissioner of circuit of the 2nd or Agra division, respecting the provision of carriage for troops on their line of march, and when otherwise required for the public service.

Copy of a Letter from the Register of the Nizamut Adawlut for the North Western Provinces to the Officiating Commissioner of Circuit for the 2nd or Agra Division, dated 25th November, 1836.

The Court have again had before them your letter under date the 6th September last and its enclosures, respecting the provision of carriage for troops on the line of march, and when otherwise required for the public service.

2. The following would appear to be the points on which you are desirous of obtaining the opinion of the Court.

First. Whether the latter part of clause 1, Section 3, Regulation XI. 1806, is to be considered as superseded by Regulation VI. 1825. *Second.* What description of carriage may be seized for the use of troops on the line of march. *Third.* Whether in cases of emergency the officers of Government may seize carriage

* See No. 108. Part III.

for the transport of rum or other supplies required for military purposes, or impress men for the department of public works.

3. In reply to your first question, I am directed to communicate to you the opinion of the Court that the latter part of clause 1, Section 3, Regulation XI. 1806, has not been superseded by Regulation VI. 1825, which, as observed by you, merely confers additional powers on the revenue authorities, leaving the provisions of the former enactment, in regard to the assistance which the police officers are required to render, when applied to in such cases, exactly as they were.

4. With respect to your second question, I am directed to state that as the authority vested in the public officers of Government by clause 1, Section 3, Regulation XI. 1806, for providing carriage for the use of troops on the line of march, is of a general nature; while the restrictions contained in section 8 of that Regulation apply only to officers not commanding nor proceeding with a corps or detachment of troops, or any other person travelling within any part of the Company's territories, either on the public service or his private affairs; the Court are of opinion that, under the provisions of the clause of the section first quoted, every description of carriage of the nature therein referred to, whether kept for private use or for hire, is liable to be seized for the purpose above-mentioned; with exception to begarees, coolies, &c. the compulsory exaction of whose services is expressly prohibited by Regulation III. 1820. I am directed however to add, that carriage kept expressly for hire should invariably be taken in the first instance, while that retained for private use should only be pressed in cases of emergency.

5. On your third question, I am desired to communicate to you the opinion of the Court in the negative on both points involved therein, provided of course, as regards the former, that the supplies alluded to are not proceeding with a body of troops, and required for their use on the line of march.

6. A copy of this letter has been circulated under this date for the information and guidance of the commissioners of circuit, magistrates, and joint magistrates.

No. 216.

To the Civil and Criminal Authorities, Lower and Western Provinces.

Lower Provinces, 16th Dec. 1836.
Western Provinces, 20th Jan. 1837.

I am directed by the Court to forward to you, for your inform-

ation and guidance, the accompanying extract, paragraphs 4 and 5, of their resolution of this date on the revision of the security of treasurers and other officers entrusted with public money for 1835.

Extract from the Resolutions of the Courts of Sudder Dewanny and Nizamut Adawlut, under date the 16th December, 1836.

Para. 4. The officers who are required to report on the securities of their subordinates have omitted generally to submit their report with punctuality, and very few have given any distinct opinion as to their validity or otherwise. The Court desire that they be called upon to submit the report of the revision of the securities required to be made by the circular order of 23rd September, 1831, (No. 34 of volume II. C. O. Sudder Dewanny Adawlut,) for 1836, on or before the 1st February, 1837; and that they insert at the foot of the form prescribed by that circular, (which for the convenience of record, should be uniformly engrossed on a sheet of foolscap paper,) the following certificate;

"Certified that I have revised the securities of the officers above mentioned, and that I consider them good and sufficient.

(Signed) A. B.

"Judge, (or Magistrate, as the case may be.)"

5. The attention of the judicial officers will be called to the circular order of the 3rd July, 1835, (No. 171 of this Part,) and they will be informed, that should they neglect to furnish this indispensable information, and any embezzlement take place, their conduct must be reported to Government.

Ordered, that paragraphs 4 and 5 of this resolution be forwarded to the judges, magistrates, and independent joint magistrates for their information and guidance.

No. 218.

To the Commissioners of Circuit, Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 6th January, 1837.

The Court having observed that the applications submitted to them for the release of prisoners who may have lost their sight since the date of their confinement, or who, from other causes, may be considered proper objects of mercy, are frequently defective in not containing the information necessary to enable them to judge of the propriety or otherwise of complying with the recommendation, have been pleased to prescribe the accompanying form, which they request that you will carefully observe in all future applications of this nature.

2. With reference to the importance necessarily attached by the Court, in cases of the foregoing description, to the certificate of the civil surgeon, they have deemed it proper to require that the opinion of that officer should be given in the form of a declaration, and inserted by the medical officers in column 10 of the prescribed statement. The magistrate will fill up column 11 with his opinion and such observations as the case may appear to him to call for, particularly as regards the general conduct and character of the prisoner recommended for release; and forward the statement to the commissioner of the division, who, provided that he agree with the magistrate and civil surgeon, will enter his opinion and remarks in column 12, and submit the original statement for the consideration and orders of the Court, retaining a copy of it for record in his own office.*

3. The magistrate will also accompany the application with a copy of the warrant under which the prisoner is confined.

FORM.

Statement of a prisoner recommended for release in consequence of bodily infirmity from the Commissioner of Circuit for the——— Division for the Magistracy of———.

1	2	3	4	5	6	7	8	9
Name of prisoner.	Sex.	Age.	Caste & profession.	Crime.	Sentence and date.	By what authority passed.	Unexpired period	Nature of complaint in consequence of which the prisoner is recommended for release

On the Reverse.

10	11	12
Declaration of the Civil Surgeon.	Opinion and remarks by Magistrate.	Do. by Commissioner of Circuit.

* Session judges are to perform the duties here prescribed. See No. 9, Part III. and the Report should be made in the Lower Provinces to Government and not to the Nizamut Adawlut. See letter from the under-secretary to Government in the Appendix. But for the Western Provinces, see No. 191, Part III.

No. 219.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 27th January, 1837.

I AM directed by the Court of Nizamut Adawlut to request, that in forwarding any explanation from the magistrates or joint magistrates within your jurisdiction, you will invariably state whether you consider the same to be sufficient and satisfactory or otherwise.

No. 220.

To the Magistrates and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 27th January, 1837.

I AM directed by the Court to call your immediate attention to the regulations and circular orders noted in the margin.*

* Sec. 16, Reg. IX. 1793.
Sec. 16, Reg. VI. 1803.
Sec. 7, Reg. IV 1797.
Sec. 18, Reg. VII. 1803.
Cir. Or. 28th Dec. 1796, No. 11, Vol. I.
Cir. Or. 12th Dec. 1809, No. 58, Vol. I.

2. The Court direct that every witness or prisoner examined by a session judge be examined exclusively and entirely in the presence of that officer, and that the same rule be considered applicable to the principal sudder ameens, ameens and other native judicial officers entrusted with criminal jurisdiction.

3. I am directed by the Court to state that very serious notice will be taken of any wilful inattention to this rule which may be brought to their notice, and you are particularly enjoined to enforce the due observation of this order on the part of your subordinate officers.

4. The Court are aware that a pressure of public business may occasionally oblige the civil judges, the magistrates and their assistants to empower their native officers to record the depositions of parties in cases coming before them; but they direct that such proceedings be confined entirely to matters of minor importance, and that in all instances the depositions be taken *in the presence* of the European officer presiding.

5. The circular order of the 28th December, 1796 does not appear on all occasions to be regularly attended to. The Court therefore direct that the principal sudder ameens, and sudder ameens, and other native judicial officers entrusted with criminal jurisdiction be directed, at the end of each deposition or examina-

tion, to certify in the Persian language, in the mode indicated in the note,* that the same has been taken in their presence.

6. The same rule will also be considered applicable to the magistrates and other European officers, but in cases of a heinous nature, and in all cases wherein a commitment may be made to the session court, the Court desire that the deposition or examination may be certified in the English language and in the mode noted in the margin.†

7. I am further directed to inform you, that under the express orders of Government you will consider yourself strictly prohibited in future from taking down the examination of parties or witnesses in any other language than that in which it is delivered. *Persian translations will, as heretofore, be annexed to the original proceedings in the event of the trial being referred to, or called for, by this Court.*‡ The above prohibition will of course be considered to extend to all the courts and tribunals over which you may exercise your jurisdiction.

No. 221.

To the Session Judges and Commissioners of Circuit, Lower and Western Provinces.

Lower and Western Provinces, 27th January, 1837.

THE Court having had before them a case in which a session judge passed a sentence of seven years' imprisonment with labour commutable to a fine, under the provisions of Section 3, Regulation II. of 1834; have directed me to inform you that a sentence of this nature is not warranted by the regulation in question. Whenever you may consider the offence of which a prisoner is convicted to demand a sentence of imprisonment for five years and upwards, you are not authorized to commute the labour to a fine.

No. 222.

To the Civil and Criminal Authorities, Western Provinces.

Western Provinces, 10th February, 1837.

THE Honorable the Lieutenant Governor having been pleased to extend to these provinces the rules for reporting on the official character and conduct of the several public functionaries laid down in the notification of the Government of Bengal, dated the 29th December, 1836, and published in the Calcutta Gazette, of

* For a witness or prisoner "taken before me, (or taken before A. B. serishtedar, and duly explained in my presence,) this 1st day of November, 1836.—C. D. Magistrate."

† For the Persian form see the Appendix.

‡ Translations are now generally dispensed with. See Nos. 26 and 94, Part III.

the 24th, and 28th, and 31st of the same month; I am directed by the Court to request your particular attention to the rules in question, and to enjoin a careful observance of them on your part.

No. 2271.

Fort William, Judicial and Revenue Department, the 20th December, 1835.

NOTIFICATION.

The periodical reports on the official characters, qualifications, and conduct of all the covenanted officers of Government in the judicial and revenue department, called for under the resolutions of the Right Honorable the Governor General in Council, dated the 28th of January, 1834, having been discontinued under the orders of the Honorable the Court of Directors, by the resolutions of the Right Honorable the Governor General of India in Council, dated the 27th of June last, and published in the Gazette of the 2nd of July following; it has become necessary, under the orders of the Supreme Government, cited in the margin,* to provide some method that shall not be open to the objections that have been urged against a system requiring superintending officers to prepare, at stated intervals, an analysis of the official characters of all the officers under them; but that shall, nevertheless, be sufficiently effective for the objects which that system was organized to obtain, and of which the importance has been fully admitted.

2. Those objects are: firstly, the carrying into effect the principle, which has been specially enjoined, of "enforcing responsibi-" lity in all superior functionaries for the incapacity, or neglect, or " wrongs committed by the civil servants under them, unless they " are, as the cases may admit, either redressed or reported to Go-" vernment." Secondly, the bringing to the knowledge of Government all instances of eminent merit and qualifications amongst its

* In obedience to the Honourable Court's instructions, it will be publicly notified that those reports shall henceforth be discontinued; but I am, at the same time, directed to state that His Lordship in Council is strongly impressed with the expediency of adopting all methods short of the systematic personal reports which have been interdicted by the Court, for the purpose of bringing to notice the manner in which every public office is conducted, in order that officers distinguished by merit may be brought forward and promoted, and that suitable notice may be taken of the conduct of those who are negligent and incapable.

The Right Honourable the Governor of Fort William in Bengal is requested therefore, in communication with the Lieutenant Governor of the N. W. Provinces, to prescribe to controlling authorities in the several departments of Government, an improved system of reporting the results of administration, or to issue such other instructions as to His Lordship may seem best calculated to promote the object contemplated by the system now discontinued; namely, that the promotion of the service may be usefully and efficiently distributed, and its discipline and spirit upheld.

covenanted officers of all ranks; so that the Government may be enabled, generally, to reward merit, to stimulate exertion, and to secure to the public service for vacant offices the best qualifications available.

3. The following rules, in amendment of those already prescribed for preparing reports of the results of administration, have accordingly been proposed by the Right Honourable the Governor of Bengal, in communication with the Honourable the Lieutenant Governor of the N. W. Provinces, and have been approved by the Right Honorable the Governor General of India in Council. They are now promulgated for the information and guidance of all officers in the judicial and revenue department, subject to the orders of the Governor.

4. In hearing appeals from zillah courts, every judge of the Court of Sudder Dewanny Adawlut shall note as each case proceeds, any points that may strike him as affecting materially the character of the court below; and whenever, at the conclusion of an appeal, any judge may be of opinion that the proceedings of such a court have been either remarkably well, or remarkably ill conducted, it shall be his duty to make a note thereon for the consideration of the Court collectively, at their English sitting. The Court will determine in what manner these notes may best be made available in the preparation of their annual report, for the expression of their collective opinion on the quality of the business performed by every *zillah* judge.

5. The Court of Sudder Dewanny Adawlut is hereby required to make a special report on the subject of any *zillah*, in which they may be of opinion that the state of civil business is such as to make it desirable, for the sake of the public interests, that measures should be immediately taken to remedy the evil. In cases of less importance, it shall be the duty of the court to notice in their annual report any serious defect which they may believe to exist in the administration of civil justice in any district under the jurisdiction.

6. In addition to the number of cases decided by each *zillah* judge, the number of miscellaneous judicial orders passed by him, and the number of days employed in session business, which information is now given in the annual report of the Court of Sudder Dewanny Adawlut, that report shall in future show the number of appeals, regular and special, lodged against such decisions and miscellaneous orders, the result of all the appeals of a like nature from each judge decided on during the course of each year, and the number of days in which each judge sat for the transaction of civil business.

7. Corresponding information, with respect to the proceedings of the several session judges, must be embodied in the annual reports submitted to Government by the Court of Sudder Nizamut

Adawlut on the administration of criminal justice; and a corresponding method for laying the necessary information before the Court, collectively, must be adopted.

8. It shall be the duty of the several commissioners of circuit to report, in their half-yearly police returns, their opinions on the general efficiency of the police of each district under their superintendence, and on the manner in which the various business in this department has been performed by each of the officers among whom it is distributed. It will also be the duty of each commissioner to notice prominently in these reports the extent to which the services of the assistants to the magistrates and joint magistrates in his division have been employed, and the consequences of such employment, in order that the application and abilities of the several officers in the junior grades of the service may be brought distinctly under the view of the Government.

9. It will be the duty of the Sudder Board of Revenue, immediately upon the close of every Bengal and Fusily year, to submit to Government a statement of all outstanding arrears of revenue in every Bengal or Fusily district, with a note of the proportion per cent. which such arrears may bear to the jumma, in each case, and to remark, where necessary, in what degree the result is attributable to the conduct of the collector or deputy collector in each district.

10. Until the completion of all resumption and settlement business, the annual division reports required from the Sudder Board of Revenue, shewing the business that has been done in those departments during the past year, and the plan of operations for the approaching cold season, will necessarily be continued. In these reports, as far as those particular duties are concerned, the Sudder Board of Revenue are hereby required to represent every case in which the conduct of the officers employed has been distinguished by zeal and discretion, or by the contrary faults; and to call upon the commissioners and collectors under them to furnish them with all statements of the allotment of work to their assistants; and with all the other materials that may be necessary to enable them satisfactorily to perform the duty above required of them.

11. It is hereby declared that it is the duty of the Sudder Court and Board, of the commissioners, of the collectors and deputy collectors, and of the magistrates and joint magistrates, to report to their immediate superior every case in which they may be of opinion that a covenanted officer, subordinate to them, is decidedly disqualified to discharge efficiently the duties entrusted to him; and it is hereby notified to all such functionaries that it is considered an essential part of their duty to make themselves acquainted with the manner in which their subordinate officers perform their duties, and that they themselves will be held respons-

ible for any mischievous consequences that may result from any inefficiency, bad habits, or serious errors of conduct of those under them, that ought to have been known to them, unless they report the same for the information of their superiors.

12. In framing the rules which have been above prescribed, the Right Honorable the Governor of Bengal has discharged the duty committed to him of improving, as far as possible, the established system for the control of the civil administration; for ensuring to efficiency its just reward; and protecting the public interests from the consequences of incapacity or neglect. But he cannot allow the opportunity of promulgating the rules to pass, without making known to the civil service in these provinces the high satisfaction with which, since his arrival in India, he has observed the zeal, the justice, and the success, with which, with rare exceptions, they have applied themselves to the performance of their various and arduous functions. To their character and public spirit, more than to the operation of any formal system of supervision and control, he looks for a perseverance in the same meritorious exertions, and for a maintenance of the same careful regard, in their important and often delicate trusts, alike to public and to individual rights.

By order of the Right Honorable the Governor of Bengal,

(Signed) Ross D. Mangles,

Secy. to the Govt. of Bengal.

No. 225.

To the Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 17th March, 1837.

It having been brought to the notice of the Court that some of the magistrates are in the habit of keeping up the register of warrants, prescribed by the circular orders of the 15th May, 1835, (No. 167 of this Part) in the Persian language only; I am desired by the Court to inform you that the orders in question were not intended to supersede that part of the circular order of the 1st May, 1829, (No. 23 of this Part,) which directs that such registers shall be kept up in the English language; and to request that the magistrates of those districts, in which the practice above adverted to may have been adopted, will immediately prepare a register in the English language, and in the form prescribed by the circular order of the 15th May, 1835, of all unexecuted sentences passed subsequently to the date of that order, and that it may be carefully kept up for the future.

No. 226.

To the Commissioners of Circuit, Session Judges, Magistrates and Joint Magistrates, Lower and Western Provinces.

Lower and Western Provinces, 7th April, 1837.

I AM directed by the Court to forward, for your information and guidance, the accompanying copies of correspondence, as per margin,* regarding the power to be exercised by session judges vested with the powers of commissioner under Act VII. 1835, over the proceedings of magistrates in criminal trials.†

Extract from a proposed Letter from the Register of the Nizamut Adawlut, Lower Provinces, to the Secretary to the Government of Bengal, dated 12*th August*, 1836.

PAR. 2. The orders of Government, contained in your letter of the 3rd May last respecting the power of session judges to try appeals from judicial sentences passed by magistrates on persons charged with criminal offences, bar the cognizance of several important matters which may precede the final sentence: such as delay in the final decision of a case, refusal of a magistrate to admit to bail, demand of exorbitant bail, and other grievances, which should be promptly attended to, and can better be decided by the session judge on the spot, than by the commissioner who may be far distant.

Extract from a Letter from the Secretary to Government of Bengal to the Register of the Nizamut Adawlut, Lower Provinces, dated the 21*st February*, 1837.

The Court will therefore consider themselves at liberty to issue instructions to the several session judges, vested with the powers specified in Act VII. of 1835, in accordance with the tenor of paragraph 2 of their proposed letter to this department dated the 12th of August last, and to the practice, which appears to obtain, with good effect, under the jurisdiction of the sudder court at Allahabad.

* Extract Para. 2, from a proposed letter from the register N. A. Lower Provinces to the secretary to Government of Bengal, dated 12th August, 1836.

Extract from a letter from the secretary to Government of Bengal to the register N. A. Lower Provinces, dated 21st February, 1837.

Copy of a letter from the register Nizt. Adt. for the N. W. Provinces to the register of the Court for the Lower Provinces, dated 9th September, 1836.

Copy of a letter from the secretary to the Lieut. Governor of the N. W. P. to the secretary to Government of Bengal, dated 25th January, 1837.

† This circular, though partly superseded by Act XXXI. of 1841, has been retained as it contains directions that may still apply to session judges.

Copy of a Letter from the Register of the Nizamut Adawlut for the Western Provinces to the Register of the Court for the Lower Provinces, dated 9th September, 1836.

I am directed by the Court to acknowledge the receipt of your letter under date the 12th ultimo, transmitting for their opinion copies of a letter from the officiating session judge of Shahabad, and of one which the Calcutta Court propose, with the concurrence of this Court, to address to the secretary to the Government of Bengal, relative to the duties to be performed by the session judges of those districts, into which the provisions of Act VII. of 1835, have been introduced.

2. I am directed in reply to observe, that although, strictly speaking, the term "sentence" made use of by the judicial secretary to the Government of Bengal in his letter to your address, under date the 3rd May last, bears the construction, which has been put upon it by the Calcutta Court in the correspondence under consideration, the Court, looking to its general purport, do not understand it to have been intended, by the employment of that term, to prohibit the interference of the session judges in regular criminal trials, in the course of their investigation before the lower courts, or to exclude from their cognizance appeals from interlocutory orders passed by those Courts in such cases, not having reference to matters of police.

3. The Court are further of opinion, that the exercise of the powers in question constitutes an essential part of the administration of criminal justice, the whole of the duties connected with which, they observe, have been made over under the orders of Government, from the commissioners to the session judges of those districts to which the provisions of Act VII. of 1835, have been extended; and that it is absolutely necessary that the latter officers should be invested with the authority above mentioned to enable them to maintain an efficient superintendence and control over the whole of the proceedings of the lower courts in regular criminal trials, and to furnish the report on the state of the department under consideration, which they are required to submit to this Court at the close of each year.

4. In support of this opinion I am directed to refer to the resolution adopted by both Courts, under date the 4th May, 1832, containing a construction of Section 3, Regulation IX. of 1831, and to paragraph 5 of the circular orders issued by the Court, under date the 21st November, 1834, to the commissioners of circuit in the Western Provinces.

5. By the former it was held that the cases of a miscellaneous nature referred to in the section of the regulation in question were not intended to include orders passed by inferior courts in the progress of criminal trials, and that such orders consequently

remained open to revision and correction by the Nizamut Adawlut, which principle the Court are of opinion must be considered equally applicable to session judges into whose districts the provisions of Act VII. of 1835, have been introduced, while in the circular order above quoted, the Court remarked that the administration of criminal justice might be said to include the whole progress of a case from the date of the criminal's apprehension to the date of his sentence.

6. The Court further direct me to observe, that the Government, in their letter, to your address under date the 10th November 1834, paragraphs 5, 6 and 7, attach much importance to a careful revision by the controlling authorities of the Persian statement No. 9 of the new forms, enabling those officers not only to detect any illegal or improper sentence passed by the magistrates, but to check any delay on their part in disposing of the trials brought before them, and readily to ascertain the general state of criminal justice in their districts, and, as in the *zillahs* to which the provisions of Act VII. of 1835, have been extended, the statement in question is submitted direct by the magistrates to the session judges, those officers must be considered to be invested with precisely the same powers in regard to the cases entered therein, as were formerly possessed and exercised by the commissioners of circuit.

7. Under these circumstances, the Court are of opinion, that the session judges, into whose districts the provisions of Act VII. of 1835, have been introduced, are competent and required to perform the whole of the duties described in the 2nd paragraph of your letter under acknowledgment, and, as they have reason to believe that this rule is generally acted upon in those provinces, they do not consider any further instructions on the subject necessary for the guidance of the criminal authorities subject to their control.

Copy of a Letter from the Officiating Secretary to the Lieutenant Governor, North Western Provinces, to the Secretary to the Government of Bengal in the Judicial Department, dated the 25th January, 1837.

Your letter of the 22nd November, requests information as to the actual practice in these provinces, with regard to the control exercised by session judges over the judicial proceedings of magistrates, and calls for the Lieutenant Governor's opinion, as to the best rule for general observance on that subject.

2. The actual practice according to the report of the Sudder Adawlut, appears to be, that the session judges exercise full control over the judicial proceedings of the magistrates in criminal

trials, whether in receiving appeals from sentences and appeals from orders, or in interfering during investigations.

3. The Lieutenant Governor is of opinion, that although it is not desirable, that the judges should exercise much interference in the proceedings of the magistrates, otherwise than in receiving appeals from sentences, the power of interference in any of the judicial proceedings of the magistrates cannot be withheld from the judges without leaving the magistrates more uncontrolled than they ought to be.

4. The magistrates in criminal judicature were formerly subordinate to the provincial courts, subsequently to the commissioners of circuit, and are now in the same relation to the session judges. Whatever powers were exercised by the provincial courts and the commissioners of circuit over the judicial proceedings of magistrates must now be considered as vested in the session judges, and the exercise of these must depend greatly on the discretion of the several judges. The interference is likely to be more incessant and more vexatious to the magistrates than it was in the hands of the provincial courts and commissioners of circuit, because the judges being, with few exceptions, at the same stations with the magistrates, appeals and complaints can be more readily and will, it is most probable, be more frequently made than they were either to the provincial courts, or to the commissioners of circuit. It will not therefore be surprising to learn, that the exercise of this interference had been attended with considerable inroads on the judge's time, and some impediment to the magistrate's efficiency. His Honor is not however aware, that practically the inconveniences have been experienced, and until they be felt, so as to require remedy, he would not advocate the discontinuance of the control which the judges have over the magistrates, and which, as far as it is beneficial, ought from locality to be more efficiently exercised by them than by former tribunals, placed, in the majority of cases, at a distance, lest that measure should in too great a degree remove control from the magistrates who may frequently require it.

5. On the whole, therefore, the Lieutenant Governor would not at present recommend any change in the practice of these provinces. He understands the control of the judges to be limited to judicial proceedings; the magistrates being, in other respects, subject to the control of the commissioners.

No. 227.

To the Civil and Criminal Authorities, Lower Provinces.

Lower Provinces, 7th April, 1837.

I AM directed by the Court to request your particular attention to the rules for reporting on the official character and conduct of the several public functionaries laid down in the notification of the Government of Bengal dated the 20th December, 1836, and published in the Calcutta Gazette of the 24th, 28th and 31st of the same month, and to enjoin a careful observance of them on your part.

(For a copy of the notification see No. 222 of this Part.)

No. 229.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Lower and Western Provinces, 12th May, 1837.

I AM directed by the Court to transmit, for your information and guidance, the accompanying copies of a letter from the officiating secretary to the Honorable the Lieutenant Governor addressed to the officiating register of Nizamut Adawlut of Western Provinces under date the 1st ultimo, and of its annexed extract of a despatch from the Honorable the Court of Directors, and to request that you will communicate the same to the magistrates and joint magistrates of your division (or district) and enjoin their strict attention to the orders therein contained.

Copy of a Letter from the Officiating Secretary to the Lieutenant Governor and Officiating Register Nizamut Adawlut N. W. Provinces, dated 1st April, 1837.

With reference to paragraph 33, of Mr. Secretary Macsween's letter dated the 14th January, 1835, I am directed to transmit for the information and guidance of the Court of Nizamut Adawlut the annexed extract, paragraph 7, from a despatch of the Honorable the Court of Directors, No. 7, dated the 21st September last. The Court are required to enforce to the utmost a compliance with these instructions.

Extract paragraph 7, from a Despatch of the Honorable the Court of Directors, No. 7 of 1836, *dated* 21*st September,* 1836.

6. We shall be happy to learn that the following instructions

have been duly acted upon. "In conclusion I am directed to request the particular attention of the court (of Nizamut Adawlut) to the important object of inducing the magistrates to make a judicious distribution of their work, among subordinate officers, European and native. The value of a magistrate's service must be more dependent on the skill and judgment with which he directs and controls the acts of all subordinate officers than upon the work he can himself perform. The time of any officer exercising civil or criminal jurisdiction ought not to be employed in details which can be well performed by the ministerial officers. No business that can be well performed by the uncovenanted officers invested with criminal jurisdiction ought to occupy the time of the covenanted servants, except for the purpose of directing, aiding and controlling their proceedings. No business ought to be performed by the head of the office which can be well done by his subordinate officers, covenanted or uncovenanted, if his attending to such duties will interfere with his more important duties of directing and controlling every branch of his office, and of aiding, instructing and encouraging each in the proper performance of the particular duties assigned to him."

No. 231.

To the Commissioners of Circuit and Session Judges, Lower and Western Provinces.

Lower Provinces, 19*th May*, 1837.
Western Provinces, 7th July, 1837.

I AM directed by the Court to forward to you, for your information and guidance, the accompanying copy of a letter written by the order of the Court of Nizamut Adawlut for the Lower Provinces on the 21st April last to the secretary to the government of Bengal, and of that officer's reply dated the 9th May, approving of the suggestion of the Court, that the duty of visiting the jails of the sudder station of each district once every month, be performed by the session judges, vested with the powers of commissioners, under Act VII. 1835.

Copy of a Letter from the Register of the Presidency Nizamut Adawlut to the Secretary to the Government of Bengal, dated 21st April, 1837.

I am directed by the Court to request that you will lay before the Right Honorable the Governor of Bengal, the accompanying copy of a letter from the session judge of Mymensing and its English enclosure, and to suggest that the duty of visiting the jails of

the sudder station of each district once every month be imposed upon the session judges, vested with the powers of commissioners under Act VII. 1835.

Copy of a Letter from the Secretary to the Government of Bengal to the Register of the Presidency Nizamut Adawlut, dated the 9th May, 1837.

In reply to your letter dated the 21st ultimo with its enclosures, I am directed to inform you that the Right Honorable the Governor of Bengal approves the suggestion of the Court, that the duty of visiting the jails of the sudder station of each district once every month, be imposed upon the session judges vested with the powers of commissioners under Act VII. 1835. The Court are requested to issue the necessary orders accordingly.

No. 233.

To the Session Judges in the Lower Provinces.

Lower Provinces, 19*th May,* 1837.

I AM directed by the Court to forward to you the accompanying extract from their proceedings of this day's date, regarding the duties of a session judge under Act VII. of 1835.

Extract from the Proceedings of the Presidency Court of Nizamut Adawlut, under date the 19*th May,* 1837.

The Court having had under consideration letters from several session judges, soliciting instructions regarding the nature and extent of the powers transferred to the session judges by Act VII. 1835, record the following observations.

2. The duties of a session judge in a district to which Act VII. 1835, has been extended, consist at present in trying all commitments made by the magistrate; in hearing and disposing of all appeals preferred from orders passed by the magistrate in criminal trials, including the whole progress of a case from the commencement to the date of final sentence; and in exercising a general superintendence and control over the proceedings of the magistrate in the administration of criminal justice.

3. The duty of visiting the jail every month, and of issuing to the magistrate such orders as may appear necessary for the better treatment and accommodation of the prisoners is also to be performed by the session judge. Section 63, Regulation IX. 1793, is also extended to the session judges.

4. The session judges are moreover carefully to revise the monthly statements submitted by the magistrate, previous to for-

warding them to this Court, agreeably to the circular orders of the 12th December, 1834, and 15th January, 1836.* The duties detailed in paragraphs 5, 6 and 7 of Mr. Secretary Macsween's letter of 10th November, 1834, circulated on the 12th December, 1834, are now to be performed by the session judges.

5. The duties of a commissioner in a district to which Act VII. 1835, has been extended, are now confined to the superintendence of the police, (vide Section 7, Regulation I. 1829;) to the hearing of appeals from the orders passed by the magistrate under Regulation XV. 1824, (vide Sections 3 and 4, Regulation II. 1829;) to control the appointment and removal of police officers and ministerial officers, (vide Section 8, Regulation XI. 1831, and circular order 14th August, 1835, (No. 177 of this Part.) The commissioner has also a general control over all cases of a miscellaneous nature other than criminal trials, (vide Section 3, Regulation IX. 1831;†) he must also hold special sessions when necessary under clause 2, Section 13, Regulation VII. 1831; and he should also make the periodical visits to the sudder stations of his division as prescribed by Section 7 of the last mentioned regulation.

6. No other points of importance at present occur to the Court as requiring notice. Should any further instructions however be required, the Court request that the commissioners and session judges will apply for the same; acting in the mean time in such a manner, as may in their judgment appear to be best calculated to benefit the public service.

ORDERED

That a copy of this resolution be communicated to the several session judges in the Lower Provinces, with a request that they will furnish the magistrates and joint magistrates with a copy of the same. A copy will also be sent to the commissioner of the 19th division.

No. 234½.

To the Magistrates, Lower and Western Provinces.‡

Lower and Western Provinces, 23rd June, 1837.

In continuation of the Court's circular order of the 22nd

* These circulars have been omitted in this edition as they only referred to statements which have been since superseded.

† The duties here alluded to, are now performed by the superintendent of police in the Lower Provinces, under Act XXIV. of 1837. Regulation XV. of 1824 has been superseded by Act IV. of 1840, and appeals from orders by a magistrate passed under that Act, or in any judicial proceeding whatever, lie to the session judge. See Construction 1145.

‡ A copy of this circular was sent to the several commissioners and session judges in the Lower Provinces

June, 1832, (No. 109 of this Part,) I am directed by the Court to request that, whenever you commit a prisoner for trial, you will intimate the same to the session judge, agreeably to the annexed form marked A.

2. The session judge will be requested to intimate to you, agreeably to the form marked B., the day on which he may be able to take up the case; and the Court trust that by adopting this mode of communication, the delay that has been observed in some districts in taking up the commitments, will, for the future, be avoided.*

FORM A.

To the Session Judge.

SIR,

I beg leave to report to you that I have this day committed A. B. and C. to the session court on a charge of murder.

2. The prosecutor and the witnesses both for the prosecution and the defence, can be in attendance on the 10th instant, or any day, after that date, that you may be pleased to fix.

3. I request you will have the goodness to intimate to me on what day the parties shall be directed to attend on your court.

I am, Sir,

Your obedient Servant,

1*st July*, 1837. A. B., *Magistrate.*

FORM B.

To the Magistrate of———.

SIR,

In reply to your letter of the 1st instant, I beg to inform you that I shall be ready to proceed to the trial of the prisoners on the 11th instant, and request the favor of your causing all the persons concerned to be in attendance at the sessions court house at 10 o'clock A. M. on that day.

I am, Sir,

Your obedient humble Servant,

———1837. C. D., *Session Judge.*

No. 235.

To the Civil and Criminal Authorities in the Lower Provinces.

Lower Provinces, 7th July, 1837.

I AM directed by the Court to request that whenever you may require lithographic forms of any description, you will apply di-

* See No. 71, Part III.

rect to the superintendant of the government press for them, and thereby prevent the delay and unnecessary correspondence consequent upon applications made through this Court.*

2. With regard to those reports and statements which you are required to forward to this Court, those forms only are to be indented for, which have been approved of by the Court; and no alterations should, on any account, be made in any form directed by the Sudder Court to be used, except with their express permission.

No. 236.

To the Magistrates in the Lower Provinces.

Lower Provinces, 7th July, 1837.

By the Court's circular order, of the 5th February, 1836 (No. 192 of this Part,) it was intimated that government had resolved to prohibit the future appointment of the same person to hold the office of Mahomedan law officer, and principal sudder ameen, sudder ameen, or moonsiff.†

2. The government have since conveyed to the Court their wish, that the leisure which the Mahomedan law officers will enjoy, when not holding the office of civil judge, should be devoted to the investigation of unimportant criminal cases.

3. Such being the case, I am directed by the Court to acquaint you, that you are at liberty to employ those officers in the manner indicated.

4. The Court, however, desire me to impress upon you, that an injudicious employment of the Mahomedan law officers in trying criminal cases may involve the anomaly of the same individual being required to sit as an assessor, in cases in which he has already conducted the primary inquiry, and has consequently prejudged the subject to be decided.

5. To admit of the services of those officers being rendered available in lightening your files, and at the same time to avoid the incongruity which might result from the want of a proper discrimination of the cases to be tried by them, the Court request that you will make over to those officers, such cases only, as may, on a cursory examination, appear to you not likely to be ultimately referred to the sessions court.

* See No. 121, Part III.

† They may now be appointed to the office of sudder ameen or moonsiff. See circular order issued by the Sudder Dewanny Adawlut, dated 23rd Aug. 1844.

No. 238.

To the Commissioners of Circuit, Session Judges, Magistrates and Joint Magistrates.

Lower and Western Provinces, 14th July, 1837.

It having been brought to the notice of the Court that some of the magistrates in these provinces consider themselves competent under the provisions of clause 2, Section 2, Regulation II. of 1834, to sentence chowkeedars, and other officers of that class, found guilty of neglect of duty, to 12 months' imprisonment in lieu of corporal punishment; I am directed to inform you that it has been ruled by both Courts that as burkundauzes, chowkeedars, &c. were not formerly liable for the offence abovementioned to stripes in addition to imprisonment, the provisions of Regulation II. of 1834, in prohibiting the infliction of corporal punishment, do not authorize any addition to the period of imprisonment, to which the officers in question were liable previous to the issue of that enactment; and* the Court request therefore that you will carefully abstain from passing such sentences.

No. 239.

To the Commissioners of Circuit, Session Judges, Magistrates and Joint Magistrates.

Lower and Western Provinces, 14th July, 1837.

I am directed by the Court to transmit, for your information and guidance, the accompanying copy of a letter from the secretary to the Government of India, under date the 12th ultimo addressed to the officiating secretary to the Lieutenant-Governor, N. W. Provinces, together with a copy of the letter from the magistrate of Agra therein referred to, relative to the competency of a magistrate to interfere with a view to uphold and enforce the right of a parent or other person to the care and guardianship of children.

Copy of a Letter from the Secretary to the Government of India to the Officiating Secretary to the Lieutenant-Governor, N. W. Provinces, dated 12th June, 1837.

I am desired by the Right Honorable the Governor General in Council to acknowledge the receipt of your letter, No. 1933, dated the 25th ultimo, submitting correspondence relative to a difference of opinion between the Sudder Court at Allahabad and the Sudder Court at Calcutta, on a reference from the Agra magistrate, as to the competency of a magistrate to interfere and

* This last clause was not communicated to the commissioners and session judges.

enforce the right of a parent or other person to the care and guardianship of children.

2. In reply I am directed to observe, that it must be exceedingly difficult to lay down any general rule applicable to all cases of this nature which may arise; but the Governor General in Council is not disposed to concur entirely in the opinion expressed by the Sudder Court for the N. W. Provinces, that a magistrate is not competent to exercise any interference in cases of the nature of those described by Mr. Mansel. That officer asks in the first place: "Is any power vested in the magistrate under the regulations to compel a wife who has abandoned the society of her husband, or who has been abandoned by her husband, to restore to the husband the children begotten during the course of the marriage?"

3. This question involves two distinct cases, and it does not appear to His Lordship in Council that in either, it would be necessarily just and proper that the mother, at least up to a certain age, should be deprived of the custody of her children. The Sudder Court for the Lower Provinces, in pronouncing their decision upon this question, have assumed (what does not seem to be implied in the question), that the wife was living in adultery. This might no doubt have material influence on the decision; but in neither of the cases propounded by Mr. Mansel in his first question, and especially not in the second case, can that fact be fairly presumed.

4. Mr. Mansel's second proposition is in the following terms: "Is any power vested in a magistrate to compel a party who, in the assumed character of guardian, next of kin, and the like, may have enticed away or carried off any infants from another party, (under whose charge or in whose possession they were,) to restore the infants to the prosecutor or into the court of the magistrate, that the magistrate may decide to whom the charge of the infant legally belongs?"

5. For the correct solution of this question also, regard must be had to the particular circumstances, of each case. It would seem to fall peculiarly within the legitimate province of a magistrate's duty, under the provisions of Regulation VII. 1819, to interfere summarily with a view to the restoration of children who may have been enticed or carried away. At the same time, there may be circumstances in particular cases, (such, for instance, as the fact of the party who was deprived of the possession having no natural or legal right to the charge of the infant,) which might render such interference inexpedient and objectionable.

6. On the whole, His Lordship in Council is inclined to think, that until some definite rules are prescribed for the guidance of the magistrates in these cases, the safest course will be to refrain from attempting to issue any general instructions, and to leave

the several magistrates to exercise a sound discretion to exert their official authority or not, according as the propriety of one or the other course may be indicated by the circumstances of each case.

Copy of a Letter from the Magistrate of Agra to the Acting Commissioner of Circuit at Furruckabad, dated 3rd January, 1837.

I beg to request that you will lay the following points of law, before the Nizamut Adawlut for the opinion of that Court.

1. Is any power vested in a magistrate under the regulations to compel a wife who has abandoned the society of her husband, or who has been abandoned by her husband, to restore to the husband the children begotten during the course of the marriage?

2. Is any power vested in a magistrate to compel a party who, in the assumed character of guardian, next of kin, and the like, may have enticed away or carried off any infants from another party, (under whose charge or in whose possession they were,) to restore the infants to the prosecutor or into the court of the magistrate, that the magistrate may decide to whom the charge of the infants legally belongs?

I may add that the practice of this magistrate's court has long been in favor of interference in each case alluded to, but the letter of the regulations nowhere warrants such practice, nor is it supported by the analogy of the powers vested in justices of the peace in England under the existing constitution of the judicature of that country. I have thought it therefore desirable to refer the two questions, that in future the magistrate, at a station where, owing to the increasing resort of Anglo-Indians, the applications for the exercise of such powers seem likely to be frequent, may be armed with a positive construction of the law of the regulations by the highest judicial authority.

No. 240.

To the Commissioners of Circuit, Session Judges, Magistrates and Joint Magistrates.

Lower and Western Provinces, 21st July, 1837.

I AM directed by the Court to inform you, that the Right Honorable the Governor of Bengal has been pleased, under the provisions of Act VII. of 1835, to direct, "that all appeals from the awards of magistrates against police officers for breach of

duty as such, shall go exclusively to the commissioners (superintendents of police), who are responsible for the good order of the police."*

No. 241.

To the Session Judges, Magistrates, and Joint Magistrates, the Thuggee Joint Magistrates and Session Judge, and the Thuggee Superintendents.

Lower and Western Provinces, 11*th Aug.* 1837.

I AM directed by the Court to communicate to you, for your information and guidance, a copy of the orders of Government, dated the 18th ultimo, prescribing, in reply to a reference made by the Court on the subject, the language in which the depositions of persons accused of being concerned in cases of thuggee, and all other proceedings connected with that class of trials, should be taken down and written.†

Copy of a Letter from the Secretary to the Government of Bengal, to the Officiating Register of the Presidency Nizamut Adawlut, dated 18*th July,* 1837.

I am directed by the Right Honorable the Governor of Bengal to acknowledge the receipt of your letter, No. 1882, dated the 30th ultimo, with its enclosures, and to request that you will inform the Court in reply, that, on consideration of all the circumstances of the case, especially of the passage quoted by Mr. Ravenshaw from Captain Lowis' letter, his Lordship thinks it most desirable, as well as most consistent with the spirit of the Honorable Court's orders. that the Oordoo Hindoostanee, which is certainly the language most universally prevalent throughout India, and with which even the thugs of lower Bengal must, from their wandering habits and practice of conversing with travellers from all parts of the country, be well acquainted, should be used by all the officers, under their jurisdiction, employed in the investigation of charges for thuggee.

No. 246.

To the Session Judges, Lower Provinces.

Lower Provinces, 22*nd September,* 1837.

I AM directed to transmit to you, for your information and

* In the Lower Provinces the appeal lies to the Superintendent of Police under Act XXIV. of 1837.

† See No. 16, Part III.

guidance, a copy of a circular* this day addressed to the magistrates and joint magistrates, and deputy superintendents for the suppression of thuggee, exercising the powers of joint magistrate, in the provinces of Bengal, Behar and Orissa, and to state that the Court of Nizamut Adawlut do not consider it necessary to furnish you with any particular instructions for the trial of thug prisoners who may be brought before you under the provisions of Act No. XXX. of 1836, as it will be sufficient for you to attend to the established forms laid down for your guidance in holding criminal trials.

2. You will be careful to affix to the record of each trial the tender of exemption from the punishment of death and transportation beyond seas, which the magistrate or joint magistrate will have made to the prisoner, and the prisoner's acceptance thereof.

No. 247.

To the Magistrates and Joint Magistrates, and the Deputy Superintendents for the Suppression of Thuggee vested with the powers of Joint Magistrate, in the Provinces of Bengal, Behar, and Orissa.†

Lower Provinces, 22nd September, 1837.

An Act having been passed (No. XIX. of 1837,) to render legal the evidence of convicts against their accomplices in crime, I am directed by the Court to communicate to you, for your guidance, a copy of the instructions which have been drafted with that view, and have been approved of by the Governor General in Council, and to request that in acting upon them you will observe the following rules.

2. Whenever you consider it necessary to obtain the evidence of a proposed approver with a view to convict his accomplices, you will, in the first instance, place on record a faithful narrative of his life of crime, noting every thuggee in which he has been employed, the names of the thugs who have been engaged in each expedition, their respective crimes and occupations in each journey, and generally will enter into as full a detail as possible, informing the person who offers himself as an approver, that for any wilful omission on his part he will forfeit the qualified pardon which you are authorized to hold out to him. After this unreserved confession you will examine a few thug approvers as to his being a real thug, and will then commit him to be tried by the session judge of the district, on a charge of being a thug under Act No. XXX. of 1836, granting him, under the instructions of

* See the next circular.

† The "Instructions" only were circulated by the Nizamut Adawlut for the Western Provinces to the magistrates, joint magistrates, session judges and commissioners subject to their control, with a letter, dated 25th August, 1837.

Government referred to in Mr. Secretary Macnaghten's letter, No. 227, of the 19th June last, an exemption from the punishment of death or transportation beyond seas. In all cases you should thus obtain the condemnation of the prisoner before you admit him as a thug approver.

3. The object of this prosecution, I am directed to observe, is to ensure the legal detention and imprisonment of the approvers for life.

INSTRUCTIONS.

You are hereby authorized to offer mercy, in the name of the Government, to any thug from whom you may have reason to expect that useful information may be procured, on condition that he make a full and ingenuous confession.

The promise which you are authorized to make is not a promise of entire pardon. His Lordship in Council has before him such strong proofs that offenders of this class are irreclaimable that he cannot consent to let any of them loose on society, however long the period of their confinement may have been, however unexceptionable their demeanour during that confinement may have been, or whatever may have been the value of the information given by them. You are therefore distinctly to understand, that you are in no case, without a special permission from Government, to hold out to any thug any hope that he will ever be set at liberty. The mercy which you are authorized to promise extends only to exemption from capital punishment and transportation, and to such indulgences in confinement as may be compatible with the safe keeping of the prisoner. Every promise of this sort which you may give, the Government will hold itself bound to perform, even though it should appear that in giving such a promise you have not exercised a sound discretion.

The promises which you are authorized to make may be made either to persons who have been convicted, or to persons who have not yet been tried.

In the former case the punishment will, on your report that the convict has made a confession which you consider as full and ingenuous, be commuted by Government according to the engagements which you may have made.

An Act has been framed providing that no person shall be incompetent to be a witness in any case by reason of a conviction for any offence; when this Act shall be passed a convicted thug will be competent to give evidence against his accomplices.

In general the promises which you make, under the authority now conferred upon you, will be made for the purpose of obtaining information from thugs who have not yet been convicted; His Lordship in Council is of opinion every such case should be followed up by the regular trial and conviction of the informer.

Nothing short of a sentence pronounced by a Court of Justice and recorded on the proceedings of that Court can be sufficient ground for detaining any person in perpetual imprisonment. If a thug approver who has never been tried were after ten or fifteen years of confinement to demand his liberty, it might be exceedingly difficult to refuse his application. The evidence on which he might have been convicted at the time of his seizure may be no longer forthcoming. The public functionaries who received his confession may be dead or may have left the country. It may be notorious that he is lying in prison as a thug. But to detain in prison for life a man who has never been tried and who demands a trial, merely on the ground that he is a notorious malefactor, is a course so objectionable, so utterly irreconcilable with all the most important general principles of criminal jurisprudence, that nothing but absolute necessity would induce His Lordship in Council to resort to it.

His Lordship in Council therefore directs, that, in every case in which you may think fit to promise mercy, in the name of the Government, to a thug who has not been convicted, you will commit him for trial before the session judge on the charge of having been guilty of the offence made punishable by Act No. XXX. of 1836. You will explain to him that if he pleads guilty to that minor offence, he will not be put on his trial for any capital crime which he may have committed as a thug.

His conviction will, under such circumstances, be a matter of course. It will give scarcely any trouble to the court by which he may be tried. It will, under the Act before adverted to, leave him a competent witness. And he will be detained for life in confinement, under an authority which can never be questioned, and in a strictly regular manner.

No. 248.

To the Session Judges and the Commissioners of Circuit, Lower and Western Provinces.

Lower and Western Provinces, 29*th September*, 1837.

I AM directed by the Court of Nizamut Adawlut to request that in future you will, in all cases of punishment without reference, defer the execution of a sentence of Tusheer for a period of three months.

2. The object of this order is to prevent the infliction of punishment in those cases in which the Nizamut Adawlut may see fit to mitigate or reverse the sentences passed by the session judges or the commissioners of circuit.

CIRCULAR ORDERS,

PASSED BY

THE NIZAMUT ADAWLUT,

AND COMMUNICATED TO THE

Courts of Circuit and Zillah and City Magistrates.

BY THE

REGISTER OF THAT COURT.

PART III.

No. 1.

*To the Magistrates and Joint Magistrates in the Lower and Western Provinces.**

Lower Provinces, 15th September, 1837.
Western Provinces, 10th November, 1837.

THERE being reason to believe that it is considered allowable to punish with stripes the crime of escaping from jail, or from the custody of a guard, such acts being supposed to amount to a "breach of jail discipline," the Court of Nizamut Adawlut direct me to inform you, that corporal punishment can be inflicted on a convict under sentence of labor in irons, only when such punishment may be considered absolutely necessary, at the moment, to quell a riot or disturbance among the prisoners, or in cases of violent resistance to the jail officers, or any other refractory conduct on the part of a prisoner, such for instance as a contumacious refusal to work, where the punishment may follow so imme-

* This and the next circular were omitted in their proper places in the first printed edition, and have not been *replaced* as it would make confusion in the numbers.

diately upon the offence as to be calculated, by the force of example, to deter others from the commission of like acts.

No. 3.

To the Commissioners of Circuit, Civil Judges, and Magistrates and Joint Magistrates, in the Lower and Western Provinces.

Western Provinces, 17*th November*, 1837.
Lower Provinces, 15*th December*, 1837.

It having been brought to the notice of the Court that considerable difference of opinion and practice prevails as to the manner of disposing of "lawaris" property, I am directed to communicate to you the following observations on the subject.

2. The Court observe that the difficulty appears to arise from the magistrates confounding "unclaimed property" with the "property of persons dying intestate" (lawaris.) With regard to the former, I am directed to refer you to Clause 16, Section 16, Regulation XX. of 1817, which expressly declares that it shall be considered the property of Government; and that whatever property of that description may come into the hands of the darogahs of police, shall be forwarded to the magistrate of the district: as respects such property therefore, the disposal of it clearly rests with the magistrate, subject of course, to the control of the commissioner and Government, without any interference on the part of the civil court.

3. With regard to the custody and disposal, on the other hand, of the property of persons dying intestate (lawaris), the Court direct me to observe that clause 7, Section 16, Regulation III. of 1803,* contains a specific provision, and declares that should no claim be preferred to it for the space of twelve months, an inventory of the property, together with a report of the circumstances of the case, shall be submitted, by the judge, to the Governor General in Council for his orders. Whenever therefore any property, of that description, may come into the hands of a magistrate, he should forward it immediately to the judge of the district, to be dealt with in the manner directed in the Section of the Regulation above quoted. (See No. 151 of this part.)

* Section 7, Reg. V. of 1799, for Bengal.

No. 4.

To the Commissioners of Circuit, Session Judges, and Magistrates and Joint Magistrates, in the Lower and Western Provinces.

Western Provinces, 15th December, 1837.
Lower Provinces, 5th January, 1838.

THE Court, having had under their consideration the returns to the circular dated the 30th December 1836, are pleased to direct the adoption, by yourself and the courts subordinate to you, of the accompanying form of a general register of fines.

2. The object of the Court in prescribing the use of this form is to provide against the misappropriation, on the part of any of your ministerial officers, of moneys paid into court: but it is not intended to prevent the adoption of any additional checks which you may consider necessary.

3. The Court request that due attention be paid to the entry in the register of all fines immediately they are imposed,—to the issuing of perwannahs to the nazir to realize the amount of such fines,—and to the examination of the register at the commencement of every month, by the head clerk, serishtadar, nazir, and treasurer of your court.

Register of Fines imposed and realized by the Magistrate of Zillah——.
by the Judge of Zillah——.

Date.	No. of fine.	Name of persons fined.	On what account fined.	Amount of fine.	Amount realized.	Date.	Signature of Nazir.	Signature of Treasurer.	Signature of Magistrate.	If not realized or if remitted, ground to be entered here.
				Rupees.	Rupees.					
October 23d,	206	Ramdhun,	Assault, ..	5	5	October 23d.	D. E.	F. G.	A. B. C.	
Ditto, ...	207	Shureeut,..	Contumacy	10	..	......	....	.....	......	Sent to jail for 10 days in lieu of fine.
Ditto, ...	208	Sheik Edu,	Affray,....	50	50					
Ditto, ...	209	Tumeez-oodeen,	Neglect of duty, ..	25	25	......	....	.....	......	Fine re-paid, having been remitted by the superintendent of police.

Abstract.—Fines imposed during the month of.......................100
Realized,.......................... 50
Remitted,.......................... 30—— 80

Under realization by Nazir,........... 20

No. 5.

To the several Commissioners of Circuit, Session Judges, and Magistrates and Joint Magistrates, in the Lower and Western Provinces.

Western Provinces, 8th December, 1837.
Lower Provinces, 12th January, 1838.

A Question having lately arisen as to the competency of a session judge to comply with the application of a magistrate to be furnished with the original, or copies of the former officer's proceedings in a trial committed to the sessions, I am directed by the Court to inform you that if, in particular cases of the above description any special grounds should exist, rendering it desirable in the opinion of the magistrate, that he should see any part of the evidence taken before the sessions court, either to enable him to follow up his enquiries in the case, or for any other purpose connected with the administration of criminal justice, or of the police of his district, he should state those grounds fully in a report to the session judge, who, on a consideration thereof, will determine on the propriety or otherwise of complying with the application, either in the former case, by transmitting, for the magistrate's perusal, transcripts of the depositions required by that officer, or by allowing an officer from his court to attend for the purpose of taking copies of the same.

No. 7.

To the Superintendent of Police, Commissioners, Session Judges, and Magistrates and Joint Magistrates, in the Lower Provinces.

Lower Provinces, 2d February, 1838.

I am directed by the Court to transmit to you; for your information and guidance, the annexed extract from their proceedings of this date.

Extract from the Proceedings of the Nizamut Adawlut, under date the 2d February, 1838.

With reference to Act XXIV. 1837, re-establishing the office of superintendent of police, the Court have had under consideration the several Circular Orders noted in the margin,* and having been in communication with Mr. F. C. Smith, the superintendent of police, on this subject, have been pleased to issue the following orders, which will

* No. 48, April 2d, 1808
,, 264, August 16th, 1822
,, 64, December 10th, 1830
,, 93, February 10th, 1832
,, 68, December 17th, 1830

No. 94,	February	10th, 1832
„ 14,	July	27th, 1832
„ 115,	August	3d, 1832
„ 119,	August	24th, 1832
„ 136,	April	6th, 1833
„ 138,	August	16th, 1833
„ 155,	December	12th, 1834
„ 190,	January	15th, 1836

be immediately carried into effect in every district over which the superintendent of police has jurisdiction.

1. Circular order No. 48, April 2d, 1808. The session judges will now perform the duties described in this circular.

2. Circular order No. 264, August 16th, 1822. The superintendent of police will direct the magistrates to rescind, alter or modify any circular instructions connected with the police issued by those functionaries. The session judges will not interfere in any way with the exercise of this power.

3. The following circular orders are hereby rescinded, viz. No. 64, 10th December, 1830; No. 93, 10th February, 1832; No. 114, 27th July, 1832; No. 119, 24th August, 1832; No. 136, 6th April, 1833; No. 138, 16th August, 1833.

4. Circular order, No. 68, December 17th, 1830, is hereby extended to the office of superintendent of police. In addition to the report to Government required by clause 2, Section 14, Regulation XI. 1806, the magistrate will report to the superintendent of police and the session judge whenever he may find it necessary to call out the military.

5. Circular order, No. 94, February 10th, 1832, is also rescinded. It being the desire of Government that the magistrates should be encouraged often to visit the interior of their districts, it is considered unnecessary that they should report* every instance of their performing or being about to perform so essential a part of their duty.

6. Circular order, No. 115, 3d August, 1832, is hereby amended. The session judges will report direct to the Nizamut Adawlut whenever they may be prevented for the period of one month from holding a jail delivery of their respective districts.

7. The several duties assigned by the circular order, No. 155, 12th December, 1834, and circular order, No. 190, 15th January, 1836, to the commissioners of circuit, will now be performed by the session judges. With regard to the statements connected with the police, the magistrates will be guided by the instructions they may receive from the superintendent.

ORDERED:

That a copy of this resolution be sent to the superintendent of police, and to each session judge, magistrate, and joint magistrate in the Lower Provinces, with instructions to alter the circular order books accordingly. A copy will also be transmitted to the commissioners for their information.

* See No. 10 of this Part.

No. 8.

To the Commissioners of Circuit and Session Judges in the Lower and Western Provinces.

Western Provinces, 2d March, 1838.
Lower Provinces, 23d March, 1838.

I AM directed by the Court to transmit, for your information and guidance, the accompanying copy of a letter from the officiating secretary to the Right Hon'ble the Governor General to the register of the Sudder Dewanny and Nizamut Adawlut of the Western Provinces, under date the 20th ultimo, and to request that you will strictly attend to the orders therein contained.

2. The present instructions are of course to be considered as superseding the latter part of the Court's circular letter under date the 22d November, 1833, (No. 141, Part II.) which declares that it shall not be necessary for the session judges to take up, during the Mohurrum or Dusserah vacation, any cases which may have been committed for trial since the commencement of it.

Copy of a Letter from the Officiating Secretary to the Governor General, N. W. Provinces, to the Register of the Sudder Dewanny and Nizamut Adawlut of that Presidency, dated 20th February, 1838.

With reference to the correspondence noted in the margin,* copies of which are annexed for the information of the Court, I am directed by the Right Hon'ble the Governor General to request, that they will explain to the several judges subject to their authority, that during the Dusserah and Mohurrum vacations, their court must never be closed for the despatch of criminal business, except on those days only, when a total cessation from all business is necessary and usual.

2. The Court are accordingly authorized to issue a circular order, directing the observance of this as a standing rule in the several subordinate courts; and they are requested to see that it is carefully attended to on occasions like the one under notice.

No. 9.

To the several Criminal Authorities, North Western Provinces.

Western Provinces, 25th May, 1838.

It having been ruled by the Court, with the concurrence of the

* Letter from judge of Mynpooree, dated 6th February, 1838.
Ditto to ditto ditto, dated 20th February, 1838.

Court of Nizamut Adawlut at Calcutta, that Sections 5 and 7, Act XXIV. of 1837, are now in force in these provinces as regards those districts to which the provisions of Act VII. of 1835 have been extended, notwithstanding that a superintendent of police has not as yet been appointed to them, I am directed by the Court to observe, for your information and guidance, that, in conformity to the rule contained in the former of the two sections above quoted, the appeal from all orders passed by the magistrates of such districts in any judicial proceeding whatever,* including cases under Regulation XV. of 1824, should, in future, be made to the session judges and not to the commissioners of circuit, and that the periodical statements, noted in the margin,† which have heretofore been submitted to and by the latter officers, should, from the date of this order, be forwarded to the session judges, who, after carefully revising them, will transmit the same to the Court. The appeal statement No. 11, which is now furnished by the commissioners of circuit, will, in like manner, be submitted by the session judges, and will be incorporated with statement No. 10, in the manner laid down at page 158 of the printed circular order book, volume II.‡

2. I am further directed to observe that as under Section 7, Act XXIV. of 1837, the session judges of the zillahs, above referred to, have been invested with the same control and superintendence over the jails of their respective districts, as was formerly possessed and exercised by the commissioners of circuit, all applications, which the magistrates may have occasion to make for the release of prisoners, who, on account of bodily infirmities, or on any other ground, may be considered proper objects of mercy, and which have hitherto been forwarded through the commissioners, should be submitted for the consideration and orders of the Court through the session judges, in the form prescribed by the circular orders of the 6th January, 1837, *a copy of which is annexed for your information.*§

No. 10.

To the Magistrates and Joint Magistrates in the Lower Provinces.

Lower Provinces, 1st June, 1838.

With reference to paragraph 5 of the Court's resolution of the 2d February, (see ante No. 7,) by which magistrates were ex-

* See Nos. 100, 119, 156, and 157 of this Part.

† Statements Nos. 12, 21, 22, 23 and 24, (all since superseded.)

‡ These statements have been superseded by others which are submitted by the session judges.

§ See No. 218, Part II. for the form.

empted from the duty of reporting their visits to the interior of their districts, I am now directed, under instructions from the Government, to request that, whenever you have occasion to proceed into the Mofussil, you will report to the superintendent of police the date of your departure and that of your return to the sudder station, as well as the cause of your departure.

No. 11.

To the Session Judges, the Commissioner of the 19th Division, and the Governor General's Agent at Hazareebaugh.

Lower Provinces, 15*th June*, 1838.

UNDER instructions from the Government I am directed by the Court to request that you will abstain from trying any commitments made by the assistants to the general superintendent for the suppression of thuggee, who are stationed at Chupra, Moorsheda-bad, and Dacca, leaving such cases to be disposed of by the session judge specially appointed for the purpose.*

No. 14.

To the Session Judges and Magistrates and Joint Magistrates, except those of Cuttack and Chittagong.

Lower Provinces, 27th July, 1838.

I AM directed by the Court to transmit to you, for your information and guidance, the following resolution passed by the Honorable the Deputy Governor of Bengal, declarative of the controlling authority of the session judges in regard to the employment of convicts.

Resolution passed by the Hon'ble the Deputy Governor of Bengal under date the 26*th June*, 1838.

The Deputy Governor considers the construction of the Calcutta Sudder Court to be right, that the controlling authority in regard to the employment of convicts is vested, by the declaration of Section 20, Regulation XVII. 1816, in the session judges now exercising the powers of the late courts of circuit, and not in the superintendent of police.

* The office of session judge for the trial of thugs is not filled up at present.

No. 15.

To the several Commissioners of Circuit, Session Judges and Magistrates of the Districts to which the Provisions of Acts VII. of 1835 and XXIV. of 1837 have been extended.

Western Provinces, 2d November, 1838.

WITH the sanction of the Right Hon'ble the Governor General, the Court direct me to forward, for your information and guidance, the accompanying copy of a Resolution passed by the Hon'ble the Deputy Governor of Bengal, under date the 26th June last, declaratory of the controlling authority of the session judges, to whose districts the provisions of Acts VII. of 1835 and XXIV. of 1837 have been extended, in regard to the employment of convicts sentenced to labor, and to request that you will consider the rule therein laid down, equally applicable to these provinces.

2. His Lordship has desired the Court to direct the session judges, in the exercise of the power in question, to communicate freely with the commissioners of their respective divisions, and to give all due consideration to the suggestions of those officers relative to the employment of the convicts, more especially on the roads in the interior of the several districts, *to which point your particular attention is requested.**

No. 16.

To the Session Judges, Magistrates and Joint Magistrates, the Thuggee Joint Magistrates and Session Judge, and the General Superintendent of Operations for the Suppression of Thuggee.

Lower Provinces, 7th September, 1838.

UNDER the sanction of Government I am directed by the Court to inform you, in modification of the instructions contained in the circular order of the 11th August, 1837, (No. 241, Part II.) that the depositions and confessions of thugs should be taken down in the language best understood by them, and the general superintendent of operations for the suppression of thuggee furnished with translations in Oordoo of any documents, written in the Bengallee or other language, which he may require.

* The words in italics were omitted in the circular to the commissioners and magistrates.

No. 17.

*To the several Session Judges in the Lower and Western Provinces.**

Lower Provinces, 2d November, 1838.
Western Provinces, 14th July, 1837.

In pursuance of instructions from the Hon'ble the Lieutenant Governor, I am directed by the Court to request that, whenever you may be prevented from taking up a case, which may have occurred within your jurisdiction, as session judge, in consequence of your having made the commitment as civil judge or magistrate, or from any other cause, you will immediately report the circumstance for the information and orders of the Hon'ble the Lieutenant Governor, through the secretary in the judicial department, with a view to his honor making such special provision for the trial of the case as he may deem proper. You will, at the same time, state to which of the neighbouring tribunals the case in question could be most conveniently referred, with advertence to the residence of the parties concerned.

2. The foregoing instructions are to be considered as superseding† the orders contained in paragraph 2 of the Court's circular letter of the 29th May, 1835. (No. 169 of Part II.)

No. 18.

To the Session Judges and the Commissioner of the 19th Division.

Lower and Western Provinces, 18th January, 1839.

I am directed by the Court to transmit to you, for your information, the accompanying copy of a circular which has been issued by the superintendent of police, Lower Provinces, to the magistrates within his jurisdiction.

To the Magistrates in the Lower Provinces.

Sir,—I have found during my late tour a considerable difference of opinion in regard to extorted confessions, which some magistrates, and a few session judges, consider to be very common, and others disbelieve the charge altogether. As much evil to the people may be done by a systematic disbelief, as well as

* A copy of this circular was forwarded on the same date (Nov. 2d) to the magistrates and joint magistrates in the Lower Provinces.

† The orders in the paragraph referred to are superseded only so far as regards the *court*, by which commitments made by the civil judge are to be tried.

much injury to the police, by a too ready reliance on such accusations, I have the honor to send for your information an extract from a minute written by Sir Thomas Munro, when Governor of Madras, in which the subject is fully and admirably discussed in all its bearings.

I am, &c.
(Signed) F. C. SMITH,
Superintendent of Police, Lower Provinces.

Fort William, Office of Supt. of Police, L. P. 14*th December,* 1838.

Extract from a Minute recorded by the late Sir Thomas Munro, Governor of Madras.

13. The Hon'ble Court have adverted at considerable length and with just severity upon the conduct of the native police officers in extorting confessions from prisoners; and they specify some very atrocious cases, among which are the murder of a man by a peon, in endeavouring to extort a confession, and the maiming a prisoner by a potail, in torturing him for the same object. In both these cases however it is satisfactory to know that the offenders were convicted and punished, one capitally and the other with two years' imprisonment and hard labor. The judge who reports, fears that cases of forced confession are too common, even among the officers of Government, but observes that the proof is difficult. When violence really takes place the proof cannot be difficult, but I believe that in a great proportion of the cases where it is charged none has been used. It is much more general in Malabar and Canara than in other zillahs, and the difference is probably owing to the people of Malabar and Canara still retaining much of the turbulent and vindictive character which they acquired while divided into petty states, and little restrained by any regular authority from exercising acts of outrage on each other.

14. It is no doubt too certain that many irregularities are used in obtaining confessions, and that in some instances atrocious acts are committed; but when we consider the great number of prisoners apprehended, and the habits of the people themselves always accustomed to compulsion where there is suspicion, how difficult it is to eradicate such habits, and how small the proportion of cases in which violence has been used is to the whole mass, the number of these acts is hardly greater than was to be expected, and is every day diminishing. The prohibition against forced confessions is known to all native police officers; and it seems extraordinary, that they should even employ force, for they know that they have much to lose, and nothing to gain by such

conduct; but some of them in spite of every injunction to the contrary, when they believe that a prisoner is guilty, think it right to extort a confession. Police officers, in general, however, will not gratuitously expose themselves to a loss of place, and their families to ruin by such conduct. Prisoners are sometimes hurt by attempting to escape, and notorious offenders are sometimes roughly treated by the villagers who assist in securing them: the marks thus caused are sometimes exhibited as evidence of extorted confession. Wherever there is proof of force having been used for such a purpose, the police officer should be invariably punished and dismissed from the service. But great caution is necessary in believing the accusation of force: it should always be very clearly established before it is entitled to credit. Police matters are so public that the charge of violence, when true, can hardly be concealed. There are two things in which there is constantly very great exaggeration, the number of persons concerned in a robbery, and the number of extorted confessions: only a small part of the alleged cases of extorted confessions are ever substantiated. The circuit court say that the proof is difficult. I believe that when true, the proof is easy, and that the difficulty lies in by far the greater part being unfounded. The charge is easily made, and the effects of its receiving belief from the court of circuit is so generally known, that offenders very frequently bring it forward in some stage of the trial. It is a point which demands the greatest possible circumspection on the part of the magistrate. If he lets the person escape who has been guilty of extorting confession, he encourages one of the worst offences against the administration of justice. If he punishes the police officer charged with this offence, in only a very few instances on false evidence, he will effectually deter the whole body from the zealous exercise of their duty, and let loose a host of robbers upon the community. No number of zillah courts would prevent the excesses complained of among the native police; were we to double the number, it would have no effect in restraining them. They can only be checked and effectually put down by the vigilance of the magistrates; by never letting them pass unpunished; by the police officers finding from experience, that they never could gain any thing from the use of force, but would certainly suffer disgrace and punishment; and by time working a change in their habits.

15. The irregularities committed by the police are now much more difficult of concealment, than when the office of zillah judge and magistrate were united in one person, confined to a fixed station; and though too many of the police officers are still frequently guilty of such irregularities, yet the conduct of the great body of them is highly useful and meritorious, and its effects are becoming every day more evident in the increasing tranquillity of the country, and the gradual diminution of organized bands of robbers. The

amelioration, though occasionally retarded by the misconduct of local officers, continues to advance, and is gradually diminishing the number of crimes.

No. 19.

To the several Criminal Authorities.

Lower Provinces, 8th March, 1839.

CONSIDERABLE difference of opinion and practice appearing to prevail as to the competency of a magistrate to interfere with a view to restore a wife to her husband, on the application of the latter, contrary to her wishes, I am directed to inform you that it has been ruled by both the Courts of Nizamut Adawlut, that the magistrates are invested with no such authority, and that applications of the above nature should be preferred in the civil court in the form of a regular suit.*

No. 20.

To the Magistrates and Joint Magistrates.

Lower and Western Provinces, 8th March, 1839.

IT having been brought to the notice of the Court that the rule laid down in the circular order of the 10th April, 1801, (No. 25, Part I,) which directs that an accurate description of the persons of all convicts, sentenced to transportation, shall be inserted in the lists, which are required, under the circular orders of the 3d August, 1796, (No. 7, Part I.) to accompany the prisoners, is not strictly attended to, and that considerable difficulty is frequently experienced, in consequence, in identifying such convicts, especially on the occasion of the relief of the guards at the different stations on their journey to Allipore, I am directed to call your particular attention to the rule above quoted, and to request your careful observance of it.

2. I am also directed to request, that you will take care, that the descriptive rolls, which should be written in both the Hindoostanee [or Bengalee in the Bengal districts] and Persian languages, as well as in English, are correctly drawn out, and that you will issue positive orders, that the guards on relieving each other carefully compare the same with the convicts.

* A similar circular was issued by the Nizamut Adawlut in the North Western Provinces, on the 20th January, 1837, but was never printed.

3. The Court further direct, that you will consider the same rules applicable to prisoners, under sentence of banishment to other districts, either for life, or a term of years.

No. 21.

To the several Criminal Authorities.

Lower and Western Provinces, 30th May, 1839.

In continuation of the Court's circular orders of the 15th May, 1835, (No. 167, Part II.) prescribing a new form of register of warrants of criminal sentences, I am directed to request that whenever the sentence passed on a prisoner may be mitigated, the magistrate as well as session judge, where the original sentence may have been passed by the latter officer, will immediately cause the name of the prisoner to be struck out, in red ink, from the register of the year, in which such original sentence would have terminated, and entered in the register of the year in which the mitigated sentence will expire, inserting in column 7 of the former register a memorandum of such mitigated sentence. The magistrate will, at the same time, recall the original certificate granted to the prisoner under the circular orders of the 14th May, 1824, (No. 292, Part I.) and, on explaining to the prisoner the mitigated sentence passed upon him, will furnish him with a new certificate, specifying the period when the reduced term of imprisonment, awarded therein, will expire.

2. The Court further direct that when the mitigation or remission of punishment may have been ordered by the Court of Nizamut Adawlut, the endorsement on the prisoner's warrant of such mitigation or remission shall be made in the vernacular language of the district, as well as in English.

3. The object of the present circular being to prevent the possibility of any prisoner being detained in confinement beyond the period of his sentence, the Court will hold the heads of offices strictly responsible for the due observance of the same; and they direct me to add, that they will consider it their duty to take very serious notice of any want of proper attention to these rules which may come to their knowledge.

No. 22.

*To the Session Judges, Commissioners of the 15th and 19th Divisions, Governor General's Agent in Hazareebagh, and Commissioners of Assam, Arracan, and Tenasserim Provinces.**

Lower Provinces, 5th April, 1839.
Western Provinces, 6th May, 1839.

I AM directed by the Court to request that, in referring any trials for their final orders, you will specify the punishment which, in your opinion, would be adequate to the crime established against the prisoners.

No. 23.

To the Magistrates and Joint Magistrates.†

Lower Provinces, 12th April, 1839.
Western Provinces, 6th May, 1839.

WITH a view to prevent any misconception, I am directed by the Court to inform you, that the term "Act" used in Act II. of 1839 is employed in contradistinction to the Regulations, strictly so called, and that the provisions of that enactment are not intended to explain any thing contained in the Regulations on the subject of fines.

No. 26.

To the several Criminal Authorities in the North Western Provinces.

Western Provinces, 31st May, 1839.

IT having been determined by Government to give practical effect throughout these provinces to the provisions of Act XXIX. of 1837, which authorise the introduction, in the conduct of public business, of the vernacular language in lieu of Persian, I am commanded by the Court, in pursuance of the wishes of the Government on this head, to communicate to you the following instructions.

2. The Court direct that, from the 1st of July next, the use of Persian in all criminal proceedings, petitions, and writings of what kind soever be wholly discontinued, and the Hindoostanee be adopted in its stead. It is understood that in some zillahs such a change has already been completely effected, and that in others it has only taken partial effect. Should the Persian language still

* See Nos. 41, 130, 153, and 182 of this Part.

† A copy of this circular was communicated on the same date to the session judges.

continue to be used in any proceedings in any department under your control, you will be pleased, from the above date, to abandon it, or direct its disuse, as the case may be, substituting or causing to be substituted for it the vernacular throughout.

3. With a view to facilitate the operation of this change, preserve uniformity, and diminish the amount of labor imposed on the establishments of the inferior courts, the Court are also pleased from the same period to dispense with the requirement of the circular order issued on the 22d September, 1837,* which, in respect of criminal trials referrible to the Nizamut Adawlut, enjoined the transmission of Persian translations of any evidence recorded in the vernacular language, in a separate "nuthee."

4. In order, however, that the relinquishment of this practice may not produce difficulties and the necessity of making references to the local officer, in such cases before the Court as relate to districts wherein peculiar or corrupt dialects are in use, it will be the duty of the session judges to transmit all proceedings they may refer to, or send up on a call of the Court, written in a correct Oordoo style, and a fair and legible character; and further to require the magistrates, whenever uncommon words or obvious provincialisms may occur in a record of evidence, to cause the mohurrir at the time of taking it down to enter in the margin the corresponding or equivalent term in Persian.

5. It is the wish of the Government that care should be taken, especially at the commencement, to adopt a clear and idiomatic Hindoostanee style, and not merely to substitute a Hindoostanee for a Persian verb at the end of a sentence; but the predilection of most native ministerial officers for Persian, their ignorance of the vernacular as a written language, and their indisposition to any change involving new labors and duties, constitute so powerful a counteracting tendency as to call for all your vigilance to correct its influence.

6. As the Government will expect to be informed of the degree of success which may be found to attend the adoption of the comprehensive measure now under trial, I am directed to express the Court's desire that you will furnish a report on the subject before the expiration of the year.

No. 29.

To the several Criminal Authorities in the Regulation Provinces.

Lower Provinces, 23d August, 1839.
Western Provinces, 6th December, 1839.

With a view to remove doubts which may exist on the subject,

* Omitted in this edition in consequence of the present rule.

I am directed by the Court to acquaint you that it has been ruled by the Court of Nizamut Adawlut, that the acts of the magistrate in the *management* of ferries are subject to the control of the superintendent of police, and that all appeals from orders in such matters shall be received and disposed of exclusively by that authority.*

No. 30.

To the several Session Judges, Magistrates, and Joint Magistrates in the North Western Provinces, and the Commissioners of Saugor and Kumaon.

Western Provinces, 27th September, 1839.

I AM directed by the Court to transmit to you, for your information and guidance, the accompanying copy of a letter from the secretary to the right honorable the Governor General in the North Western Provinces to the address of Major Sleeman, commissioner for the suppression of dacoitie, dated 29th July last, and of the form of certificate therein alluded to, on the subject of a conditional offer of mercy, to the extent of exemption from the punishments of death and transportation beyond sea, to dacoit approvers.

No. 1889.

To Major W. H. Sleeman, Commissioner for the Suppression of Dacoity, Moradabad.

SIR,

Judicial Dept. I am directed to acknowledge the receipt of your letters, Nos. 348 and 364, dated the 8th and 11th instant, with their enclosures; and in reply to inform you that the right honorable the Governor General authorises you to offer mercy, in the name of the Government, to any dacoit, from whom you may have reason to expect that useful information may be procured, on the conditions described in the form of certificate appended to your letter of 8th instant.

2. Copies of this correspondence will be sent to the Court of Nizamut Adawlut for information.

I have the honor to be, &c.

(Signed) F. CURRIE, *Secy. to the Right Hon'ble the Governor General in the N. W. Provinces.*

Simla, the 29th July, 1839.

* See No. 39 of this Part.

FORM OF CERTIFICATE PROPOSED FOR DACOIT APPROVERS.

You are promised exemption from the punishments of death and transportation beyond seas for all past offences, and such reasonable indulgences as your services may seem to merit, and may be compatible with your safe custody, on condition, 1st, that you make a full confession of all the dacoities in which you have been engaged; 2nd, that you mention truly the names of all your associates in crime, and assist to the utmost in your power in their arrest and conviction. If you act contrary to these conditions; conceal any of the circumstances of the dacoities in which you have been engaged; screen any of your friends or relations; attempt to escape; or accuse any innocent persons; you shall be considered to have thereby forfeited all claim to such exemption and indulgence.

No. 31.

To the Session Judges, Magistrates and Joint Magistrates.

Western and Lower Provinces, 11*th October,* 1839.

An instance having occurred in which a sentence of imprisonment awarded against a female convict included the imposition of fetters, I am directed to acquaint you that it has been ruled by the Court that the subjection of female prisoners to irons being, for obvious reasons, improper, shall not in future be had recourse to, excepting in cases where some special necessity may exist for their use, as a precautionary measure, such as by way of security to prevent escape.

2. You will be pleased carefully to act on this rule in future.

No. 32.

To the Session Judges, Magistrates, and Joint Magistrates.

Lower and Western Provinces, 18*th October,* 1839.

I am directed to annex, for your information and guidance, the extract of a letter from the judge of Futtehpore, bringing to the notice of the Nizamut Adawlut in the North Western Provinces, an error in the Persian translation of a portion of Section 19, Regulation IX. of 1807, consisting of the insertion of the redundant words و غیره (oghyrah) which, in order to correspond with the English sentence, ought to be omitted.

2. You are requested to cause the above superfluous words to be expunged from all the Persian copies of the Regulation in question in use in your office.

Extract (paragraph 3) of a Letter from the Session Judge of Futtehpore, to the address of the Officiating Register to the Court of Nizamut Adawlut, North Western Provinces, dated 25th June, 1839, No. 13.

Para. 3. In the Persian version of Section 19, Regulation IX. of 1807, from the expression در مقدمات دزدی وغیره (durmooqquddumat i doozdee oghyrah) it appears that the punishment of stripes might be awarded in other cases besides those of theft, while, in the corresponding English sentence, corporal punishment is confined to the crime of theft alone. By striking out the words "oghyrah," the translation will be correct.

No. 33.

To the Magistrates and Joint Magistrates.

Lower Provinces, 1st November, 1839.

It having been represented to the Government, that the peons who are entrusted with perwannahs addressed to landholders or their officers, for assistance to be rendered to the police on emergencies, or for other purposes, are in the habit of exacting tullubana from the parties, I am directed by the Court of Nizamut Adawlut to request that you will take immediate measures for the discontinuance of the abuse, should it have prevailed within your jurisdiction.

No. 34.

To the Magistrates and Joint Magistrates, and to the Principal Assistants of Hazareebagh, Assam, Arracan, and Tenasserim.

Western and Lower Provinces, 16th November, 1839.

In pursuance of instructions received from the Government, I am directed by the Court to transmit, for your information and guidance, the accompanying copy of papers regarding the course to be followed in cases, where Europeans in the mofussil are charged with offences for which they will be tried in the Supreme Court, and to request your careful observance of the rule therein prescribed.

COPIES.

No 2191 of 1839.

Judicial Department.

To the Officiating Secretary to the Government of India.

SIR,

With reference to your letter, dated the 7th of January last, No. 7, I am directed by the honorable the Governor in Council to transmit, for the information of the honorable the President in Council, copies of a letter from the acting advocate general, dated the 12th ultimo, and of a circular this day issued to all the magistrates under this presidency, directing them, in all cases where Europeans in the districts are charged with offences for which they will be tried in the Supreme Court, to forward the depositions to the Honorable Company's solicitor, in order that they may be advised of the evidence which should be brought forward in such cases.

I have the honor to be, &c.
(Signed) L. R. REID,
Acting Chief Secretary to Government.

Bombay Castle, 22d August, 1839.

No. 38 of 1839.

From the Acting Advocate General, dated 12th July, 1839.

SIR,

I have the honour to report to Government the result of cases tried at the present criminal sessions in the Supreme Court, in which Government prosecuted.

2. The first was that of Michael Dunn, a private in the 4th Dragoons, who was indicted for stabbing a Borah named Akapa, with intent to murder, or to maim, disfigure, or disable him. The prosecutor deposed that he was hawking goods near the quarters of the prisoner, when the latter beckoned to him, stating that he had some copper to sell. The prisoner then asked the Borah what money he had with him, and the Borah replied three rupees in pice, upon which the prisoner said he did not like his wife to see him selling the copper, but that if the Borah would walk on, he, the prisoner, would follow; the prisoner then took the Borah to the edge of the river at Kirkee, and waited for a very long time pretending that he expected another soldier of the 3d troop. After remaining there upwards of two hours the Borah said he would go, upon which the prisoner told him to stay, saying he would look for the soldier. The prisoner, after being absent about half an hour, suddenly returned and without saying a word stabbed the prosecutor over the hip about 2½ inches in depth. The prisoner made no attempt to rob him, and, on the Borah crying out, ran off.

This story seemed very improbable, and could scarcely in its details be true. Still however the fact remained that the Borah had been severely wounded by some one. The Borah made the best of his way to the sergeant major, and complained that he had been stabbed by a soldier whose name he did not know. The sergeant major sent another sergeant with the Borah, who said he could point out the man's bungalow. The Borah then took the sergeant to the bungalow of the prisoner, and pointed him out as the person who had wounded him. These facts occurring whilst the wound was still fresh and smarting, and when, therefore, every reason existed for believing the Borah would point out the really guilty party, were proved by other parties. The case was further confirmed by a native woman in the service of the prisoner, who deposed that her master came home on that day about one o'clock in great heat and confusion, and instantly took off his shoes and hat and desired this woman to hide them. The prisoner called witnesses to his character, who gave him a very bad character. After retiring for some hours, the jury returned a verdict of "not guilty."

3. I am unwilling to pass over this case without drawing the attention of Government to the want of care that exists in the local investigation of offences committed by Europeans in the districts. Amongst the witnesses sent down on the present occasion were three women, one of them the prisoner's wife, who by law cannot be a witness to criminate her husband, and the other two to depose not to any thing within their own knowledge connected with the offence but to what they had been told by the prisoner's wife, and which, it is plain, could not be evidence that the facts so told were in themselves true.

4. The present season rendered it the more hard upon these persons (one had an infant in arms) that they should have been sent here from Kirkee to prove that they had seen nothing but had been told a great many things. In addition to which Government have to reimburse them their expenses, a very trifling sum no doubt.

5. The main cause of its so often happening, when Europeans are committed in the districts for trial in Bombay, that persons who can give no personal testimony are yet compelled to travel down as witnesses, arises, as far as my experience goes, from the magistrates making no distinction between hearsay and original evidence. Witnesses in the Supreme Court are allowed to speak to what they know only, and not to what they have been told by others; for many persons are told what is very untrue, and whilst on the one hand the communication has not been made on oath, on the other the Court has no opportunity of ascertaining what were the informant's means of knowledge.

6. I wish to be considered as casting no blame on Mr. Rudd,

the magistrate, in this instance. He was investigating an offence under an act of parliament, and technical rules of evidence he can scarcely be expected to know.

7. But to avoid such things for the future, I take the liberty of suggesting that in all cases where Europeans in the districts are charged with offences for which they will be tried in the Supreme Court, the magistrate taking the depositions should be directed to forward them, if time will admit of it, to the Hon'ble Company's solicitor, who will at once be able to inform the magistrate what persons should be sent to Bombay, and whether the evidence collected is sufficient or not, and, if not, what further enquiries, and in what quarters, should be made.

8. The next case was that of Lewis Cribbs and Joseph Newton, who were charged by three indictments, with obtaining goods from different persons on false pretences. On the first indictment Cribbs was proved to be a common swindler and was found guilty: Newton produced witnesses to character, and the evidence not being strong as to him, he was acquitted. On the second case Cribbs pleaded guilty, and though there was great reason to believe that Newton had been concerned in cheating, yet the witnesses failed in proving him guilty of the specific offence laid in the indictment, and he was, therefore, acquitted a second time. Feeling that I should experience the same difficulty in the third case in fixing Newton with being a party to the false pretences, I did not think it desirable to proceed further. Cribbs was sentenced to transportation for seven years.

I have the honor to be, &c.

(Signed) WM. HOWARD,
Acting Advocate General.

Advocate General's Office,
Bombay, 12th July, 1839.

CIRCULAR.

No. 2186 of 1839.

To all the Magistrates. *Judicial Department.*

In transmitting, for your information and guidance, the accompanying copy of an extract, paragraphs 1 to 7, of a letter from the acting advocate general, dated 12th ultimo, I am directed by the honorable the Governor in Council, in calling your particular attention to the suggestions contained in paragraphs 3 to 7, inclusive, to request that hereafter in all cases where Europeans in the districts are charged with offences for which they will be tried in the Supreme Court, you will, if time will admit of it, forward the depositions to the Hon'ble Company's solicitor, in order that you may receive the advice and suggestions of that officer on the evidence which is to be adduced at the trial.

I have the honor to be, &c.

(Signed) L. R. REID,
Acting Chief Secretary.

Bombay Castle, 22d August, 1839.

No. 35.

To the Session Judges and Commissioners of Circuit, Western Provinces, and the Commissioners of the 16th and 19th Divisions, and Session Judges of Chittagong and Cuttack, in the Lower Provinces.

Western and Lower Provinces, 22*d November,* 1839.

Doubts having been entertained in respect to what is the proper constituted tribunal of appeal for parties seeking redress from orders of magistrates dismissing them from their situations, such orders not being part of the sentence passed in any criminal trial, and considerable diversity of practice having obtained in consequence, appeals of the nature described having in some districts been considered cognizable by the commissioner and in others by the session judge, I am directed to acquaint you that it has been ruled by the Government, upon a reference from the Court, that such appeals cannot be heard by the session judge, but lie, under the law, to the commissioner.*

2. You will be pleased to regulate your future proceedings accordingly.

No. 36.

To the Session Judges and the Commissioner of the 19th Division.

Lower Provinces, 22*d November,* 1839.
Western Provinces, 10*th January,* 1840.

With reference to the circular order of the 22d May, 1835, (No. 168, Part II.) I am directed to request that whenever you have occasion to record an opinion in the statement of persons acquitted, of the commitment not having been made on sufficient grounds, you will forward a copy of the magistrate's roobakaree of commitment with the usual sessions statements.†

No. 37.

To the several Criminal Authorities.

Lower and Western Provinces, 6*th January,* 1840.

I am directed to communicate, for your information and guidance, the following rule established by the Court, fixing the pro-

* In the Lower Provinces these appeals lie to the superintendent of police.

† See No. 57 of this Part.

per corresponding phrase in the native language to express the English word "affray."

2. The Court observe that the translations of the Regulations of Government constitute no certain guide in the matter, great diversity of phraseology appearing to prevail in rendering the word in the various Regulations wherein it is used. With reference, however, to the most general acceptation, it appears to the Court that an affray in which both sides are in fault and liable to punishment for breach of the peace, is most generally expressed by the term "khanahjungee," and they remark that it is so rendered (indifferently with "hungamah purdazee") in the preamble of Regulation II. of 1823, which regards "affrays concerning land and arising from other causes." The term "hungamah" the Court coonsider rather to express a riot or tumultuous assembly, where one side alone is presumed to be offensive.

3. As the establishment of some fixed authoritative phraseology for general use and observance is conducive both to uniformity and the equitable administration of criminal justice, the Court are pleased to direct that for the future the word "affray" in all criminal proceedings shall be rendered "khanahjungee," (in Bengalee "danga hangama;") and the term "hungamah," (the same in Bengalee) be restricted to indicate a riot or tumultuous assembly.

No. 38.

To the several Criminal Authorities.

Lower and Western Provinces, 28th January, 1840.

I AM directed to communicate to you the following rule established by the Court, prescribing the mode of proceeding to be followed by an officer in charge of the current duties of a session judge's office, on receipt of an application for staying execution of any order of a magistrate against which an appeal has been lodged.

2. On receipt of a petition of the nature described, the officer holding temporary charge of the session judge's office should immediately transmit a copy thereof, with a proceeding, to the magistrate's court, in order that that officer, being made acquainted with the purport of any application for staying execution of the order appealed against which the petition of appeal may contain, may have the opportunity of exercising his discretion in regard to the suspension of such order, either with or without taking security, until the appeal can be brought to a hearing before the session judge.

No. 39.

To the several Criminal Authorities.

Lower Provinces, 31st January, 1840.
Western Provinces, 27th March, 1840.

I am directed by the Court, under instructions from the Government, to intimate to you, that it is not competent to a session judge to receive an appeal from the orders of a magistrate for the realization of ferry balances.

No. 40.

To the several Criminal Authorities.

Western Provinces, 20th March, 1840.
Lower Provinces, 3d April, 1840.

With reference to the circular, dated 19th July last, calling for information on the practice observed in filling up the monthly criminal statement No. 5, in regard to the record of the death of any prisoner or prisoners who may have been sentenced to undergo imprisonment in one zillah, but subsequently transferred for working on the roads, or under any other contingency, to another, the Court have now had under consideration the replies received thereto, and, with a view to the attainment of uniformity and the avoidance of confusion and error, are pleased to establish the following rule.

2. It has been found that no regular principle of entry prevails in respect to such casualties, the magistrates of some districts accounting in their own statements for deaths of prisoners detached from their own to other zillahs; the larger proportion, however, pursuing what the Court consider to be the correct method, of only entering, in their monthly returns, casualties among convicts (whether of their own or other districts) who may be under their actual custody or charge, leaving the deaths happening among their own prisoners sent to other districts to be entered and accounted for in the statements of such districts, while some officers appear to include in the statements both deaths in their own jurisdiction among convicts from other districts, and deaths in other jurisdictions among convicts from their own, a method of entry of necessity erroneous, and calculated to induce confusion, and represent the same casualties twice over.

3. The Court have been pleased to resolve, that in future each magistrate shall only account for and include in his monthly statement such casualties as may occur among prisoners (whether

of his own or other districts) *under his actual custody or charge;* that prisoners in progress to other districts, for work on the roads or for other reasons, be borne on the statements of the districts whence they are sent, with the addition of a note to that effect, until notification of their having reached their destination be received there, when they will be struck off and appear in the statement of the district to which they may have been detached; that a similar rule apply to such prisoners returning from detached duty; that on this principle deaths happening among convicts in transit either going or returning, be accounted for in the returns of the districts they are leaving; and that in respect both to casualties in transit and after arrival, the magistrate to whose district the prisoners may be sent, on obtaining information thereof, invariably forward the warrant, sent with the individuals so deceasing, to the magistrate from whose district they came, enclosed with a certificate of death under his official seal and signature.*

No. 41.

To the several Criminal Authorities.

Lower Provinces, 27*th March*, 1840.
Western Provinces, 24*th April*, 1840.

I AM directed to request that, in referring trials in which imprisonment for life may be recommended, you will invariably state your opinion, whether such imprisonment should be undergone in transportation or in the Allipore jail, with your reasons for proposing whichever of the two may be suggested by you.†

No. 42.

To the several Magistrates and Joint Magistrates.

Lower Provinces, 27*th March*, 1840.
Western Provinces, 1*st May*, 1840.

IT appearing to be a general practice in cases of murder, or wounding endangering life, when the body or wound may have been inspected by the civil surgeon, to submit the result of his examination to the magistrate in the form of a written report, I am directed to inform you that in such cases, when a commitment to the sessions court may be probable, the deposition of the surgeon should be taken in the magistrate's court, on oath, as

* This circular has been retained on account of the rule relating to warrants in the last paragraph.

† See No. 130 of this Part.

such deposition, duly attested and proved in the manner prescribed by paragraphs 6 and 7 of the circular order, dated 16th July, 1830, (No. 54, Part II.) would be available as evidence on trial, in the event of the unavoidable absence of the surgeon.

2. I am directed to add that you should not resort to the measure of taking the deposition of the medical officer in the manner above stated, except in cases when his evidence on trial shall be manifestly necessary.

No. 44.

To the several Civil and Criminal Authorities in the Lower Provinces.

Lower Provinces, 3d April, 1840.*

WITH reference to the provisions of Act V. of 1840, I am desired to transmit to you the subjoined translations† in Bengalee and Urdu, of the affirmation enjoined to be taken by all Hindoo and Mahomedan deponents, and to request that you will make use of them until further instructions, in regard to the carrying out of the provisions of the Act, shall be forwarded to you.

2. In the event of its being necessary to use the Bengalee form for Mahomedans, the terms used to designate the Supreme Being, by persons of that persuasion, will of course be substituted for that which now appears in the translation.

3. It is not required that the deponent should sign his name to any written affirmation, but he should merely read it out in court, or the declaration should be read out to him and repeated by him before giving his deposition, and at the heading of his written deposition it should be stated that he was sworn according to the provisions of Act V. of 1840.

4. Until general publicity has been given to the Act, the provisions of Section 2, should be clearly explained to persons giving evidence in your court.

No. 46.

To the several Civil and Criminal Authorities.

Lower and Western Provinces, 1st May, 1840.

With reference to the circular, No. 35,‡ dated the 31st May, (Western Provinces, 20th September) last, I am directed to say

* For the Agra court's circular, see No. 48 of this Part.

† These translations will be found in the Appendix.

‡ This circular was issued by the Sudder Dewanny Adawlut,

that the concluding injunction of paragraph 3 of the circular of the Military Board, dated 14th May, annexed thereto, (as quoted in the margin,*) having been found open to objection, the Court are pleased to resolve that it be omitted, and you are accordingly requested to erase the words referred to, and consider them as cancelled.

2. As regards the mode of dealing with individuals placed in the predicament contemplated by that paragraph, the Court think it sufficient to leave the matter to the sense and discretion of the officer at the head of the department.

No. 48.

To the Civil and Criminal Authorities in the North Western Provinces.

Western Court, 15*th May*, 1840.

WITH reference to the provisions of Act V. of 1840, I am directed to transmit to you the subjoined translation,† in Urdu, of the affirmation thereby enjoined to be taken by all Hindoo and Mahomedan deponents, and to request that you will make use of the same until further instructions, in regard to carrying out the provisions of the enactment, shall be forwarded to you.

2. You will of course understand that the terms of the Act referred to, are imperative in prescribing the future exclusive use of the form of affirmation contained in it, and entirely supersede the administration of oaths on the Koran, or Ganges' water, or any other symbol heretofore in use. The services, therefore, of the Gunga Jullees and Moollah Koorarees of the several establishments, appear to be no longer required.

3. It is not required that the deponent should sign his name to any written affirmation; he should merely read it out in court, or, if unable to read, the affirmation should be read out to him two or three words at a time, by the presiding authority or by one of his head ministerial officers, and repeated by the deponent, before giving his deposition, at the head of which it should be stated that he was sworn according to the provisions of Act V. of 1840.

4. Until general publicity shall have been given to the Act, the provisions of Section 2 should be clearly explained to persons giving evidence in your court.

5. The translation is of course liable to be modified or super-

* "Such persons should not be allowed to depart without making good the damage done."

† The translation will be found in the Appendix.

seded upon receipt of the authoritative version made by the Government translator.

No. 51.

To the several Magistrates and Joint Magistrates in the Lower Provinces.

Lower Provinces, *5th June*, 1840.

I am directed by the Court to transmit to you, for your information, copy of a circular issued by the Sudder Board of Revenue to the subordinate revenue authorities, regarding the security to be required from officers who may be appointed to the charge of both foujdaree and collector's treasuries.

Circular of the Presidency Sudder Board of Revenue to the Commissioners of Revenue, under date the 29th April, 1840.

In conformity with orders of Government, in the Judicial Department, under date the 14th instant, No. 660, I am directed by the Sudder Board of Revenue to intimate, for the guidance of the collectors and independent deputy collectors of your division, that in all future cases of the appointment of the treasurer of a collectorate, who may also be required to take charge of the foujdarry treasury, it will be incumbent on the collector to insert in the security bond a clause rendering the sureties responsible for any abuse of trust by the treasurer in the foujdarry department.

No. 52.

To the several Magistrates and Joint Magistrates.

Lower Provinces, *12th June*, 1840.
Western Provinces, *31st July*, 1840.

It having been represented to Government, that landholders and their agents are frequently subjected to considerable hardships by the arbitrary infliction of a fine, in cases wherein the darogah or other police authorities may think proper to report to magistrates their (the zemindars') neglect of police duties, I am directed to request your attention to the following instructions regarding the mode of proceeding on receiving such reports.

2. On receiving a report of alleged neglect of police duties on the part of any landholder, you will not require his personal attendance at your court, before calling upon him to furnish, within a week or ten days, a written explanation of the charge brought

against him. Should the explanation be unsatisfactory, or should none be afforded within the time, you will require him to appear before you on an appointed day, in person or by mooktear, to answer the charge. On his obeying the summons you will be careful to enter immediately upon the enquiry; avoiding all delay by summoning the witnesses in support of the charge to appear on the appointed day, and by directing the accused to produce at the same time any witnesses whose evidence he may desire to offer in his own defence.

3. The offence being one of a bailable nature, the accused or his agent should not be placed in custody when required to attend the investigation into the charges.

No. 53.

*To the several Magistrates and Joint Magistrates.**

Lower and Western Provinces, 12*th June*, 1840.

I AM directed to communicate, for your information and future guidance, the following rule regarding your power of disposing of certain descriptions of cases of assault and affray attended with wounding, instead of committing them to the sessions court.

2. You will not in future consider the mere circumstance of a bone-fracture to take a case of assault out of your cognizance, it being left to you to determine, with reference to the extent of the injury, and other considerations of a similar nature, what cases of this description should be disposed of by yourself and what made over for trial to the sessions court.

3. It will not be competent to the latter authority to cancel a commitment made by you under this discretionary power, merely on the ground of the session judge differing from you in regard to the tribunal before which the case should be brought, and by which consequently the amount of punishment is to be regulated.

4. In supersession of the Constructions quoted in the margin,† by which cases of affray attended with wounding, if the wounds have been inflicted by a sword, have been ruled to be beyond the competence of a magistrate finally to dispose of, it is hereby declared that henceforward you are empowered, in such cases, to commit or punish, as you may judge most expedient, without regard to the instrument of offence, and with reference solely to the nature and extent of the injuries inflicted by the aggressors.‡

* A copy of this circular was forwarded to the session judges and commissioners of circuit on the same day.

† Nos. 613 and 628, printed Construction Book, Vol. II., pages 3 and 7.

‡ Extended. See No. 102 of this Part.

No. 54.

To the several Criminal Authorities.

Lower Provinces, 12*th June*, 1840.
Western Provinces, 24*th July*, 1840.

With reference to a question which has been submitted to the Court whether, in cases where a party retains possession of land leased out to him by the zemindar, notwithstanding the expiry of the lease, the magistrate is precluded, by the terms of Section 2, Act IV. 1840, from putting the zemindar in possession, but must refer him to a regular civil suit for his remedy, I am directed by the Court to inform you that such cases, wherein the landholder has a right of distraint or seizure under the existing Regulations, will be governed by Section 10 of the Act; and that on the right of distraint or seizure being pleaded, it will be incumbent on the magistrate to dispose of that plea, before entering on the question of previous possession with a view to the decision of that single point.

2. The principle of the Act, you are requested to observe, does not differ from that of the existing Regulations. The same principle will consequently govern the decision in cases of the description alluded to, as would have governed them had the Act never been passed; and the zemindar will be maintained now as previously to the passing of the Act, in the exercise of his just and legal rights, with this difference that the decision now rests with the criminal, instead of, as formerly, with the civil authorities.

No. 55.

To the several Session Judges and Commissioners of Circuit.

Lower Provinces, 12*th June*, 1840.
Western Provinces, 24*th July*, 1840.

I am directed by the Court to communicate to you the following instructions regarding the particular description of cases which, when tried in the mode contemplated by clause 1, Section 4, Regulation VI. 1832, that is, with the aid of a punchayet, assessors, or jury, but without the opinion of a Mahomedan law officer, would be referrible under that clause to the Nizamut Adawlut for final disposal.

2. The Court observe that the condition of reference to the Court set forth in the proviso of the clause cited, viz. the crime of which the prisoner is convicted being one which the judge is not specially empowered by the Regulations to punish, must be

held to relate to the nature of the crime, and, since whatever is defined or *specified* in the Regulations to be a crime is specifically punishable by the criminal courts, the session judge is therefore specifically empowered to punish such offences when brought before him in due course of law.

3. The real object of the legislature in enacting Section 4 of the Regulation in question, appears to the Court to have been to declare the incompetency of the sessions court, unassisted by a Mahomedan law officer, to declare that to be a crime which is not so declared by the Regulations. The law professedly administered is the Mahomedan law, amended and modified by the Regulations. Where the amendments are applicable, there can be no difficulty in disposing of trials; but in the contrary event, an exposition of the Mahomedan law is necessary to pronounce whether the act of the prisoner is punishable or otherwise. The session judge sitting with assessors has not the benefit of such exposition, and hence the necessity and propriety of a reference to the Nizamut Adawlut.

No. 57.

To the several Session Judges and Commissioners of Circuit.

Lower Provinces, 24*th July*, 1840.
Western Provinces, 14*th August*, 1840.

FINDING that much of the time of the amlah of the session courts is occupied in preparing copies of roobakarees of commitment, which the circular order of the 22d November, 1839, (No. 36 of this Part,) requires to be sent in all cases in which the commitment may be declared to have been made on insufficient grounds, the Court direct me to request that you will consider the order to be henceforth restricted to cases in which the proceedings of the magistrate, in making the commitment, may appear to you to merit the particular notice of the Nizamut Adawlut.

No. 58.

To the several Criminal Authorities in the North Western Provinces.

Western Provinces, 31*st July*, 1840.

I AM directed to communicate to you the following rule, regarding the process by which the evidence of a prisoner is obtainable in a district other than that in which he may be confined.

2. It has been determined that whenever the evidence of a

prisoner under such circumstances may be indispensable, the court requiring it shall request the magistrate of the district in which the prisoner may be confined to send him to such court, informing the Nizamut Adawlut of the step thus taken; and it will be competent to a magistrate, on such emergent requisition, to forward the prisoner to the court requiring his presence, for the purpose stated, reporting at the same time, for the information of the Nizamut Adawlut, his compliance with the requisition, and eventually the prisoner's return to his jail.

No. 59.

To the several Magistrates and Joint Magistrates.

Lower Provinces, 7*th August*, 1840.
Western Provinces, 28*th August*, 1840.

It appearing from the several replies received from the magistrates and joint magistrates of the Lower Provinces to the Court's circular of the 1st November last that the provisions of Section 3, Regulation III. 1812, have not in all instances been properly attended to, I am directed by the Court to request that you will, in future, strictly conform to the rules laid down in that Regulation; and that you will be careful to ascertain that indigent witnesses are, on all occasions, supported either by the prosecutor or by the state, during the time of their detention from their homes, whether the case be pending before the session judge or otherwise.

2. The Court request your particular attention to the speedy disposal of all criminal charges, so that the witnesses may be detained for as short a period as is practicable at the sudder station; and you are requested to intimate to all your covenanted and uncovenanted assistants, the expectation of the Court that no unnecessary delay will take place in their courts.

3. The Court have observed with much satisfaction, that the alleged confinement of witnesses by the nazirs in what is termed the *hajut* guard, is altogether unfounded; and they confidently rely on your zeal and activity to prevent any abuses on the part of the subordinate native officers, and to punish the same when brought to your notice and proved to be true.

No. 60.

To the several Civil and Criminal Authorities.

Lower Provinces, 17*th August*, 1840.
Western Provinces, 28*th August*, 1840.

I am directed by the Court to transmit to you, for your information, an extract from a despatch from the Honorable the Court of

Directors, relative to the imposition of heavy fines upon native servants of Government drawing small allowances.

Extract from a Despatch from the Honorable the Court of Directors, under date the 11th February, 1840.

"We have on former occasions expressed our strong objection to the imposition of heavy fines upon native servants, as involving them in pecuniary difficulty, and inducing them to resort to improper practices for the purpose of indemnification. It appears to us that the preferable course is, when an officer refuses to do that which his official duty requires of him, to transfer at once the office to a more obedient holder."

No. 61.

To the several Magistrates and Joint Magistrates in the Lower Provinces.

Lower Provinces, 14th August, 1840.

I AM directed by the Court to transmit to you a form of engagement, in Urdu and Bengalee,* to be taken from parties who undertake the safe custody of persons who have committed crimes in a state of mental derangement.

No. 62.

To the several Session Judges and Commissioners of Circuit.

Lower and Western Provinces, 4th September, 1840.

IT being considered desirable to prescribe a uniform mode of sentence for adoption in cases of persons convicted of having committed any penal act while in a state of insanity, I am directed to annex, for your information and guidance, a form of sentence, which you are requested to observe on the occasions referred to, together with a form of engagement of security, copy of which, with the translation accompanying,† you will be pleased to furnish to the magistrate under your control, for use as occasion may require.

2. I am at the same time desired to call your particular attention, and to request that you will direct that of the magistrate to the circular order of the Nizamut Adawlut, dated 11th Febru-

* For the Urdu and Bengalee forms of engagement, see Appendix . for the translation in English, see the next circular.

† For the translations, see Appendix.

ary, 1825, (No. 307, Part I.,) and especially paragraphs 4 and 5 thereof, as indicating the proper mode of proceeding in such cases.

FORM OF SENTENCE.

The Court (of Nizamut Adawlut or Sessions, as may be) finds that the said A. B. committed the said act while laboring under insanity, and, acquitting him of the charge, directs that he be kept in safe custody in some suitable place of confinement until his relations or friends shall furnish security to the amount of Company's Rupees ———— to take proper care of the said A. B. and to prevent the said A. B. from committing any act injurious to the person or property of any one, and until the Court (of Nizamut Adawlut or Sessions) may be satisfied that the said A. B. may be delivered over to his relations or friends without danger to the community.

FORM OF ENGAGEMENT.

Whereas the Court (of Nizamut Adawlut or Sessions, as the case may be) did by their warrant under date the —— of ———— 183—, order and direct that A. B convicted of having committed the act ———— while in a state of insanity, should be kept in safe custody until his relations or friends should furnish security to the amount of Company's Rupees ———— to take proper care of the said A. B. and further bind themselves to prevent the said A. B. from committing any act injurious to the person or property of any one, and further until the said Court (of Nizamut Adawlut or Sessions) should be satisfied that the said A. B. might be delivered over to his relations or friends without danger to the community; we, the undersigned, C. D. of ———— and E. F. of ———— do hereby engage and bind ourselves and heirs in the sum of Company's Rupees ———— to take proper care of the said A. B. and to prevent the said A. B. from committing any act injurious to the person or property of any one; in default whereof, we do hereby acknowledge ourselves and heirs to have forfeited to Government the sum of Company's Rupees ————, and for the non-fulfilment of this our engagement, the aforesaid sum shall be levied from us and our heirs, and from our property, agreeably to Section 4, Regulation VI. 1818. Provided, however, that it be optional to us or our heirs, to obtain a release from this engagement, on making over the person of the said A. B. to the magistrate, whenever we may so desire. For the performance of the above conditions we pledge the undermentioned property. Dated ————, in presence of ————.

The property pledged in this deed belongs to the sureties and is worth ———— Rupees.
L. S.———— ————Nazir of the Court.

No. 63.

*To the Magistrates and Independant Joint Magistrates in the North Western Provinces, and to the Assistants of Saugor and Kumaon.**

Western Provinces, 18th September, 1840.

It having been found necessary to throw all questions regarding the pay and remuneration of the subordinate medical officers of the Government into the hands of the Medical Board in Calcutta, I am directed by the Court, under instructions from the Honorable the Lieutenant Governor, to intimate to you that, in future, any recommendations you may have occasion to make touching the emoluments of that class of officers, should be submitted, through the regular channel, to the Medical Board direct.

No. 64.

To the several Session Judges and Commissioners of Circuit.

Lower and Western Provinces, 18th September, 1840.

I am directed to acquaint you that it has been recently ruled by a majority of the Courts of Nizamut Adawlut that the circular order dated 7th May 1824 (No. 291, Part I.) is only applicable to the crime of administering *poisonous* drugs to persons, with a view to robbing them when in a state of insensibility, and does not include the offence of administering drugs or substances, of a merely intoxicating character and not of a nature to endanger life, for the purpose recited, and that, consequently, those cases only are referrible to the Nizamut Adawlut in which the prisoners are accused and convicted of having administered *poisonous* drugs.†

No. 65.

To the several Magistrates and Joint Magistrates in the Lower Provinces.

Lower Provinces, 16th October, 1840.

I am directed by the Court to transmit to you, for your inform-

* Copies of this circular were sent to the session judges on the same date.

† See No. 82 of this Part.

ation and guidance, the accompanying extract from the proceedings of the Right Honorable the Governor of Bengal, under date the 8th ultimo, regarding the purchase of tents for the use of magistrates.

No. 1472. *Extract from the Proceedings of the Right Honorable the Governor of Bengal in the Judicial Department, under date the 8th September,* 1840.

Read the proceedings of the 6th February last in this department, Nos. 9 to 21, on the subject of tentage allowance to civil functionaries while absent from their stations on duty.

Read also a letter from the magistrate of Nuddea, (No. 275 of the 14th July last,) soliciting permission to purchase a tent for his mofussil tours at a cost of Company's Rupees 650.

The Right Honorable the Governor of Bengal observes that a sum of Company's Rupees 650 was allowed every eight years* on account purchase of a double-poled tent for the use of each district magistrate and collector, when those offices used to be vested in the same individual, but that, on the separation of the offices, the tents remained in most instances attached to the office of the collector.

It appears to His Lordship necessary however that both magistrates and collectors should be provided with office accommodation while on duty in the interior of their districts; and with this impression the Governor will, as occasion may be shewn, have no objection to sanction the purchase of single-poled tents at an expense of Company's Rupees 350 each, for the use of magistrates, and also when new ones may be required for the use of collectors.

Ordered, that a copy of this Resolution be transmitted to the Superintendent of Police, Lower Provinces, and to the Revenue Department, for the purpose of communication to the Sudder Board of Revenue.

No. 66.

To the several Civil and Criminal Authorities.

Lower Provinces, 16*th August*, 1840.

Western Provinces, 5*th November*, 1840.

I AM directed by the Court to transmit to you, for your information and guidance, the accompanying extract from the proceedings of the Right Honorable the Governor General in Council, in the

* Vide Government Orders of the 18th November, 1829.

military department, under date the 9th instant, regarding the entertainment in one department of the public service of persons holding employ in another.

No. 276. *Extract from the Proceedings of the Right Hon'ble the Governor General of India in Council, in the Military Department, under date the 9th September,* 1840.

Extract of a Military Letter from the Hon'ble the Court of Directors, No 33, *dated* 10*th June,* 1840.

14. As it is of much importance that natives who have been trained to the duties of an office, more especially to duties of a scientific nature, such as those performed by Radanath Seikdar, should not be encited to quit their stations with a view to their own advantage in another branch of Government employ, we fully approve of the intimation given by you to the Revenue Board that it was wrong for one department of the State to bid against another for the services of competent officers. We are of opinion that all departments should be apprised that they must not only not invite, but must positively refuse to entertain an application for employment from any native who is, at the time of making the application, in the public employ of a Government office or department, unless they shall have previously received the full acquiescence of the head of such office or department.

Ordered, that the preceding extract of the Honorable Court's letter, be transmitted to the several departments mentioned in the margin,* for information, and for such communication to the heads of offices and other authorities in correspondence with those departments respectively, as may appear to be necessary.

No. 67.

To the several Civil and Criminal Authorities.

Lower Provinces, 16*th October,* 1840.
Western Provinces, 4*th January,* 1841.

I AM directed by the Court, under instructions from the Government, to inform you that English stationery of any kind is not to be charged for in your contingent bills, as such articles are to be obtained by indent from the Government stores under the control of the Military Board.

* Secret and political, judicial, revenue, general, and legislative departments.

No. 68.

To the several Civil and Session Judges.

Lower Provinces, 30th October, 1840.

UNDER instructions from the Right Honorable the Governor of Bengal, I am directed to request that you will abstain from forwarding to Government, representations from the uncovenanted judges, or officers attached to your court, relating to their services, it being the wish of His Lordship, that all persons desirous of bringing their claims prominently to the notice of Government, should do so themselves by the public post.

2. You will not of course consider this order as rescinding the circular orders No. 215 of the 29th September 1837, and No. 73 of the 6th March 1840.*

3. You will be pleased to furnish the magistrate and joint magistrate of your district with a copy of this letter.

No. 70.

To the several Session Judges.

Lower and Western Provinces, 30th October, 1840.

THE Construction No. 1125, dated 22d January 1838, ruling that a session judge cannot award labor in addition to imprisonment in cases of conviction under clause 2, Section 4, Regulation XVII. of 1829, having been re-considered by the Calcutta and Allahabad Courts, it has been determined by a majority of the judges of both Courts that, as the crime of aiding and abetting in a Suttee is expressly declared by law† to be culpable homicide, conviction of which latter offence includes liability to labor, the same penalty is awardable in the former case also; and construction No. 1125, is, accordingly, hereby superseded.

No. 71.

To the several Session Judges and Commissioners of Circuit.

Lower and Western Provinces, 13th November, 1840.

THE Court are pleased to prescribe the amendment shewn below of the statement of postponed trials, No. 3, with reference to the

* These circulars were issued by the Sudder Dewanny Adawlut.

† Clause 2, Section 4, Regulation XVII. 1829.

circular order, dated 23d June 1837, (No. 234½, Part II.) and to enjoin its adoption henceforward by the session judges and the alteration of the statement accordingly.

2. The object is to exhibit the intermediate transactions between the "date of commitment" (present column 2) and the "date of the receipt of proceedings in sessions court" (column 5) contemplated by the circular alluded to, and to fix with exactness the period from which the responsibility of the magistrate ceases, and that of the session judge begins.

3. Though, therefore, the circular No. 208, dated 16th December 1836,* which prescribes the introduction of this form of statement, lays down that a case is to be considered pending before the sessions court from the date of commitment, of which the magistrate is bound to give immediate notice to the session judge, it may not in all instances be in the power of the latter officer to proceed with the trial forthwith, and it is more equitable to hold him accountable for a case from the date on which the parties may reach his court, whether such date be that fixed by him or one posterior, in which latter event the column of Remarks should, of course, contain an explanation of the delay on the part of the magistrate.

Column 2.	Column 5.
Date of commitment to the sessions and date proposed by magistrate for attendance of parties.	Date fixed by session judge for attendance of parties, and date of arrival in his court of proceedings and parties.

No. 72.

To the Civil and Criminal Authorities in the North Western Provinces.

Western Court, the 13th November, 1840.

The Court deem it requisite to call the attention of the several authorities under their control to the purport of the circular No. 20, dated 2d July 1830,† and to enjoin the observance, henceforward, of the rule laid down therein, requiring each letter address-

* This circular has been omitted, as it only contained rules for the preparation of a statement of trials postponed or not commenced upon.

† This circular was issued by the Sudder Dewanny Adawlut.

ed to the Court to be accompanied by an abstract of its contents, which appears to have fallen into disuse, but which the receipt, in several late instances, of letters and reports of "unnecessary expansion" has forced on them the necessity of maintaining, on the grounds noticed by the Honorable the Court of Directors in the extract of their despatch appended to the circular.

No. 73.

To the several Civil and Session Judges in the Lower Provinces.

Lower Provinces, 20th November, 1840.

I AM directed by the Court to request that you will forward a return, drawn up agreeably to the annexed form, of the names of the serishtadar, paishkar, and nazir at present attached to your court, with as little delay as may be practicable, and to intimate to you the desire of the Court that you will hereafter report, for their information, the removal or resignation of those officers, within ten days after the same may have taken place.

2. You will also be pleased to report to the Court the names of any individuals who may be hereafter nominated to these offices, agreeably to the same form, and within the same period after the nomination may have occurred.

Return of the names of Serishtadar, Paishkar, and Nazir of the District of F.

Name of the officer.	Appointment held by him.	When nominated and by whom.	Age.	Number of years in the public service.	Schedule of landed property possessed by him.	General remarks as to qualifications, &c.
A. B.,	Serishtadar. ..	In 1825, by Mr. C. D.,	45	23	One Talook at a Jumma of 350 Rs. in Zillah E.	
	Paishkar.					
	Nazir.					

No. 74.

To the several Session Judges in the North Western Provinces, and to the Commissioners of Saugor and Kumaon.

Western Provinces, the 11*th December*, 1840.

UNDER instructions from Government, the Court intimate to the session judges that, whenever there may be such a real excess of prisoners requiring lodgment in any jail above the number for which such jail affords convenient accommodation, as to render the measure necessary, they are at liberty to authorize the construction of kutcha buildings for the safe custody of the surplus prisoners, but those only, whose terms of imprisonment may not exceed six months, should be confined in such temporary buildings.

2. The session judges are requested to report every occasion of their finding a recourse to such extra accommodation necessary.

No. 75.

To the Magistrates and Independant Joint Magistrates in the North Western Provinces and Principal Assistants of Saugor and Kumaon.

Western Provinces, the 11*th December*, 1840.

IN reference to recent enquiries regarding the number of prisoners which the jails in the North Western Provinces are capable of accommodating, and the variations of estimate apparent therefrom, the Military Board have been requested by Government to call on the several executive officers, after carefully ascertaining, in communication with the magistrates, what places are ordinarily assigned for the safe custody of prisoners, to determine how many prisoners they are calculated to hold, when the number so determined will be adopted by magistrates in their future returns.

2. The magistrates are accordingly requested to put themselves in correspondence with the executive officers, for the purpose of carrying into effect the above object in the most complete and satisfactory way.

No. 76.

To the several Civil and Session Judges in the Lower Provinces.

Lower Provinces, 18*th December*, 1840.

THE Right Honorable the Governor of Bengal has lately forwarded to the Court two original letters from the chief magistrate

of Calcutta, regarding certain irregular requisitions made by the mofussil authorities to that officer, for the purpose of obtaining the evidence of witnesses, residing in Calcutta, in causes that appear to have been pending in the Company's courts.

2. Section 4, Act XXIII. of 1840, indicates the manner in which subpœnas issued by the mofussil authorities, may now be executed within the local limits of Her Majesty's courts; and you are therefore directed to refrain from sending any requisitions to the chief magistrate of Calcutta, in any civil or criminal proceedings, for the purpose of obtaining the evidence of witnesses residing in Calcutta.

3. The Court request that you will be careful that every subpœna, writ, warrant, or other process, required to be endorsed under the authority of this Act, be drawn up in strict conformity with the Regulations of Government, in order that the same may not be remitted to you for amendment.*

4. You will furnish the magistrate with a copy of this letter, and you will communicate the contents to the principal sudder ameen and sudder ameen of your district.

No. 77.

To the several Session Judges in the Lower Provinces, the Commissioner of the 19th Division, and the Special Session Judge for the trial of Thugs.

Lower Provinces, 26th December, 1840.

I AM directed by the Court, in pursuance of instructions from the Government, to request that you will forward to them any applications which may be made in future by the law officers of your district, for leave of absence from their duties, with your own opinion as to the propriety of compliance with the same.

No. 78.

To the Session Judges in the Lower Provinces.

Lower Provinces, 26th December, 1840.

I AM directed by the Court to transmit to you the following extract of an address from the Medical Board to the Government of the North Western Provinces, the subject of which appears deserving the consideration of the officers in charge of jails, not only in

* See No 82 of this Part.

the Behar districts where *Otta* is the common food, but also in those districts in which any considerable number of the natives of the Upper Provinces may be in confinement.

Extract (paragraphs 2 and 3) of a letter from the Members of the Medical Board to the address of the Hon'ble the Lieutenant Governor, North Western Provinces, dated 26th September,* 1840, *No.* 408.

Para. 2. With reference to that part of the Resolution, where it is observed "that the prisoners are peculiarly exposed to the sordid and unprincipled imposition of the contractor and jail establishment," we beg to state, that we most fully concur; and in no respect perhaps is the evil in question more to be apprehended than in the facility the contractor at present has of supplying inferior and adulterated *Otta*. To obviate this, we would suggest that all the wheat in future should be purchased by some trustworthy person, to be selected by the magistrate, and ground in the jail by the prisoners themselves, which plan would also have the advantage of affording suitable employment for the debilitated either from old age or disease.

3. This measure we have already recommended for general operation in jails.

No. 79.

To the several Commissioners, Session Judges and Magistrates in the North Western Provinces.

Western Provinces, 23*d January*, 1841.

THE Court circulate, for general information, an extract (paragraphs 3 and 4) from their report to Government on the administration of criminal justice for the year 1839, containing the development of important principles connected with the department of criminal justice, to which the attention of all the authorities is requested.

Extract (paragraphs 3 and 4) from the Court's Annual Criminal Report to Government, No. 2277, *dated* 30*th October*, 1840.

3. The first point, discussed in the correspondence cited in the

* This extract was circulated by the Western Court among the session judges in the North Western Provinces and the commissioners of Saugor and Kumaoon, with directions that they would take the subject to which it refers into consideration "in connection with the fifth point on which they were required to report by the circular order No. 1984, dated 25th September." See paragraphs 5 and 6 of the C. O. No. 88 of this Part.

margin,* relates to the prominence heretofore given to the proportion borne by acquittals to convictions in the number of persons apprehended on criminal charges, as well as in the cases of commitment to the sessions court, as a test for judging of the efficiency or otherwise of the conduct of his duties by a magistrate. The sentiments of the Court have been already communicated that such a criterion has been too much and too exclusively insisted on; but they, at the same time, beg to submit extract of instructions prepared by them for circulation, to the session judges, with revised criminal forms and statements, which have been for some time under the consideration of the Presidency court, as elucidatory of their view thereon.

"Too exclusive stress appears to have been heretofore laid on the proportion borne by acquittals to convictions in the number of persons apprehended on criminal charges, as well as in cases of commitment to the sessions, viewed as a criterion for estimating the efficiency of the administration of a district—the recognized principle having been that any considerable disproportion between the number of persons apprehended in a zillah in any month, and the number whose cases the magistrate has been able to prosecute to punishment or commitment, must be regarded as presumptively shewing that a great proportion were subjected to seizure without reasonable grounds; a rule which, though abstractedly true, is open, when adopted as an invariable test for judging of the efficiency or otherwise of a system, to the objections, on the one hand, of its causing a magistrate to desire the conviction and punishment of the parties tried and fully disposed of in his own court, in order to shew fair returns, and, on the other, of inducing the same officer to abstain from the commitment, or to resist the apprehension, in the progress af an investigation, of all persons of whose conviction at the sessions he is not beforehand certain, and of favoring the concealment and suppression of offences by the darogah of police, from his over-caution not to send in persons without a certain quantum of proof to convict them, and his apprehension of being censured for so doing. Though therefore, when the acquittals may much exceed the convictions, cause for enquiry is doubtless shewn, which it should be your duty to institute, and the result of which you should note, yet you ought not to assume, as disparaging to the system of a district, a circumstance which may admit of satisfactory explanation, nor, on the other hand, pronounce a preponderance of convictions to indicate successful management, without first ascertaining how many judgments by the magistrate were appealed to, and revised by, the session judge, or in how many cases the

* Mr. Secy. Currie's letter, No. 2694, dated 6th November, 1839, paragraphs 8, 9, 10 and 11.
Court's reply, No. 1782, dated 22d idem, paragraph 3.

punishment on conviction was so light as to render it not worth while to appeal, and what was the issue of the commitments made to your court."

4. Another important question on which correspondence* has passed, is the protracted continuance of criminal cases under investigation in some districts, and the detention of parties and witnesses resulting therefrom, a point to which it has been usual to attach great weight in judging of the degree of success with which the duties of a magistrate are conducted, without perhaps sufficiently taking into account obstructing causes, and various difficulties with which he has had to contend. What has also had the effect of much increasing, in many instances, the average rate of duration of a case in particular districts, is the inclusion therein of individual cases, which may have been indefinitely postponed owing to peculiar circumstances that the magistrate was unable to control; and as cases of this nature ought obviously to be excepted from the general calculation, the Court intend to prescribe their exclusion accordingly in the preparation of the remodelled forms. The following extract of the instructions already quoted, relates to this subject:—

"The foregoing considerations, involving the nature and extent of the auxiliary agency in the criminal department, connect themselves closely with a subject to which your best attention should be directed, and which should be noticed in your report, viz. the long, moderate, or short duration of a criminal case, as affecting the convenience of parties and witnesses therein, and as indicative of a sound and effective system or the reverse. When therefore the average number of days during which cases under trial in a district appears excessive, or when great variation of time may be known to exist between one year or district, and another, the causes should be carefully investigated, and the principle of calculation tested, that is to say, whether individual cases of extraordinary protraction are included therein, or not, and whether the period is computed from the date of apprehension by the police (as it should be) or from the date of arrival at the sudder station of the magistrate."

No. 80.

To the Session Judges and the Magistrates and Joint Magistrates in the Lower Provinces.

Lower Provinces, 19*th February*, 1841.

The Court, having recently ascertained that the criminal state-

* No. 2694, dated 6th Nov. 1839, from Mr. Secretary Currie, paragraph 12, No. 782, dated 22d idem, from the Court.
No. 1360, dated 12th June 1840, from the Court, paragraphs 3 to 11.
No. 2333, dated 29th July 1840, from Government.

ments of some districts are so prepared as to present but an imperfect view of the state of business pending before the magistrates and their subordinates, direct me to bring the same to your notice, with a view to such irregularities being avoided, if they should have obtained in the district under your control.

2. The practices alluded to consist, 1st, in entering in the abstract statement of pending business, (on the back of the magistrate's statement No. I,) those cases only in which the accused have been apprehended, or are in attendance on bail or personal recognisance; and 2ndly, in not entering appeals from the orders of their subordinates, as soon as the petitions are filed, but deferring the entry for the receipt of the proceedings, or for other reasons. These practices are irregular. In the first case, the Court observe, that a case should be considered as pending, and entered in the statement, as soon as a petition or other information has been received, without reference to the defendants being present or not. In the second case, an appeal is to be considered as pending from the date of filing the petition of appeal.*

3. The object of the statements required from the magisterial officers being to show the amount of business pending in their courts, and the progress made in disposing of such business, it is obvious that those statements serve only to mislead the controlling authorities if they exhibit the quantity of business, despatched in the course of the month, but keep out of sight the actual number of cases remaining for disposal. Your particular attention is therefore required to the manner in which the statements of your district are drawn up.

No. 81.

To the Civil and Session Judges, and the Magistrates and Joint Magistrates in the Lower Provinces.

Lower Provinces, 26*th February*, 1841.

It being the wish of the Government that the charge of treasuries should, in all practicable cases, devolve upon a covenanted rather than an uncovenanted officer, I am directed by the Court to intimate to you that it must be considered the duty of the magistrate or joint magistrate residing at the same station with the collector or deputy collector, to assume charge of the treasury of the revenue officer, during the authorized or unavoidable absence of the latter.

2. Your attention is at the same time requested to the circu-

* This circular has been retained as important in regard to filing petitions of appeal.

lar order No. 26, dated 23d November, 1838,* which required public functionaries to receive charge of public property when the officer having custody is unable, from any circumstances, to retain charge of it.

No. 82.

To the Civil and Criminal Authorities in the Lower and Western Provinces.

Lower Provinces, 1st March, 1841.
Western Provinces, 18th June, 1841.

THE following instructions on the subject of Act XXIII. 1840, are promulgated for general information, and for guidance as occasion may require.

1st. Every process, civil or criminal, will be forwarded in an envelope to the address of the Hon'ble Company's attorney of Calcutta, either by dawk, or by the hands of a peon or other public officer, as may be most convenient. with a letter drawn up agreeably to the annexed form marked A.†

2d. Any money that it may be requisite to send to the Hon'ble Company's attorney, will be remitted by a bill on the general treasury from the collector of the district.

3d. All subordinate judicial officers will submit the processes of their courts, which may require execution under Act XXIII. 1840, to their European principal, to be by him forwarded in the prescribed manner to the Hon'ble Company's attorney.

4th. All processes will be drawn up agreeably to the forms marked B and C, or agreeably to such other forms as may from time to time be circulated by the Courts of Sudder Dewanny and Nizamut Adawlut.

5th. The party at whose requisition any witness may be summoned, must be prepared to pay to the witness such sum for his expenses as the Judges of Her Majesty's Supreme Court may consider reasonable and proper.

6th The judges and magistrates of the zillah courts will be careful that their own processes are drawn up correctly, and they will also ascertain that the processes of the subordinate courts,

* This circular was issued by the Sudder Dewanny Adawlut, at the desire of the Court of Directors, expressed in the following extract from a letter dated 16th May 1838.

Para. 30. "You express an opinion that it must be considered the duty of every functionary, under Government, to take charge of public property, when required to do so.—We trust that this opinion has been duly promulgated, for in the case which gave rise to our observations, all the officers at the station declined the responsibility of taking charge of certain public stores."

† Every criminal process is to be directed to the justices of the peace for the town of Calcutta, but forwarded in an envelope with a letter to the Hon'ble Company's attorney. See No. 186 of this Part.

that may be forwarded to the Hon'ble Company's attorney, are drawn up agreeably to these rules and to the Acts and Regulations of Government.

B.

Criminal Processes.*

No. 1. Summons.

To Ramdhun Mistry,

Inhabitant of Colootollah, in the Town of Calcutta.

Whereas a complaint has been preferred on the solemn declaration of Sheik Runjoo, inhabitant of Sealdah, in the 24-Pergunnahs, charging you with assault: you are hereby required to appear before the magistrate (or the principal sudder ameen, or sudder ameen) of the zillah of the 24-Pergunnahs, on or before the 15th day of April 1841, to answer to the said charge. Herein fail not. Dated the 2d day of April 1841.

L. S. A. B.

Magistrate.

No. 2. Warrant with Bail.

To Mohumud Nazim,

Nazir of the Fouzdarry Court of the 24-*Pergunnahs.*

Whereas John Brown, inhabitant of Sealdah, stands charged on the solemn declaration of Rampersaud bearer, with assault attended with severe wounding: you are hereby directed to apprehend the said John Brown, and to require bail in the sum of 500 rupees for his appearance, before the magistrate of the said court, on or before the 20th day of April 1841, and if the said John Brown shall not give the bail above stated, you are directed to bring him before the magistrate of the said court. Herein fail not. Dated this 4th day of April 1841.

L. S. A. B.

Magistrate.

No. 3. Warrant.

To Mohumud Nazim,

Nazir of the Fouzdarry Court of the 24-*Pergunnahs.*

Whereas Abdoollah Garewan, inhabitant of Kuryah, stands charged on the solemn declaration of Peerbux, inhabitant of Sulkea,

* For the translations of these forms, see Appendix.

with the crime of murder: you are hereby directed to apprehend the said Abdoollah Garewan, and to produce him before the magistrate of the said Court. In this fail not. Dated the 5th day of April 1841.

L. S. A. B.
Magistrate.

No. 4. Search Warrant.

To Mohumud Nazim,
Nazir of the Fouzdarry Court of the 24-Pergunnahs.

Whereas Ramdoolal, inhabitant of Manicktollah, hath made information and complaint on solemn declaration, that the following property, that is to say, two brass lotahs, one string of gold beads, and two pieces of long cloth, were stolen from his house, situated at Manicktollah aforesaid, and that he suspects that the aforesaid property is concealed within the dwelling house and premises of Hookoor Chand Mug, inhabitant of Chore Bagan, in the town of Calcutta: you are hereby authorized and required, with the necessary and proper assistance, to enter into the said dwelling house and premises of the said Hookoor Chand Mug, in the day time, and if the said property shall be found therein, you are required to bring the property so found and also the person of the said Hookoor Chand Mug, before this court.

Given under my hand and the seal of the court, this 6th day of April 1841.

L. S. A. B.
Magistrate.

No. 5. Subpœna.

To Sheik Peerbux,
Inhabitant of Coolootullah, in the town of Calcutta.

Whereas your attendance is required to give evidence on behalf of Sulkea Miskin, inhabitant of Sulkea, in a case of assault: you are hereby required personally to appear before the magistrate (or the principal sudder ameen) of the zillah of the 24-Pergunnahs on the 6th day of April 1841. Herein fail not. Dated the 2d day of April 1841.

L. S. A. B.
Magistrate.

No. 6. Warrant for a Witness.

To Mohumud Nazim,
Nazir of the Fouzdarry Court of the 24-Pergunnahs.

Whereas Sheik Peerbux, inhabitant of Colootollah, in the town of Calcutta, was duly subpœnaed on the 4th day of April 1841, to

give the evidence in behalf of Sheikh Miskin, inhabitant of Sulkea, in a case of assault, and whereas the sum of five rupees was tendered to the said Sheikh Peerbux, for his expenses, as appears by the declaration of Sheikh Rumzoo Peada, who has also declared to the due service of the said subpœna, and whereas the said Sheikh Peerbux has neglected and refused to appear according to the exigency of the subpœna: you are hereby directed to apprehend the said Sheikh Peerbux and to produce him before the magistrate of the said court. In this fail not. Dated the 17th day of April 1841.

L. S. A. B.

Magistrate.

No. 7. Proclamation for the attendance of a party charged with a criminal offence.

Proclamation of the Fouzdarry Adawlut of Zillah 24-Pergunnahs

Whereas Ramdhun, inhabitant of Sealdah, stands charged, on the solemn declaration of Rumzoo, inhabitant of Sealdah, with the crime of dacoity, and whereas a warrant was on the 7th day of April issued for his apprehension to answer to the said charge, and whereas from the report of Mohumed Nazim, nazir, dated 12th April 1841, it appears that the said Ramdhun has absconded or concealed himself so that the said process cannot be served upon him: proclamation is therefore (in conformity to Section 4, Regulation XI. 1796,) hereby made that if the said Ramdhun shall not appear to answer to the said charge on or before the 15th May 1841, he will be subject to all the penalties of the aforesaid Regulation. Dated the 14th day of April 1841.

L. S. A. B.

Magistrate.

No. 8. Recognizance of a Witness.

Whereas Sheik Janoo, inhabitant of Sulkea, has complained against Peru, inhabitant of Sealdah, charging him with assault, and I have been named as a witness for the complainant (or the defendant,) I hereby engage to appear before the magistrate of the zillah of the 24-Pergunnahs on or before the 12th day of April 1841, for the purpose of giving evidence; in default whereof, I hereby further bind myself to pay such fine to Government as the magistrate may judge proper to impose on me, as well as any expenses that may be incurred, in consequence of my non-attendance, for compelling my appearance. In this I will not fail. Dated the 7th day of April 1841.

L. S. Sheikh Rumzan,

Inhabitant of Durrumtollah, Calcutta.

No. 9. Bail Bond for the appearance of a party charged.

Whereas Syfoo, inhabitant of Sealdah, stands charged with assault, and is required to appear before the magistrate of the

zillah of the 24-pergunnahs on or before the 5th April 1841, to answer such charge, I hereby bind myself to produce the said Syfoo before the said magistrate on the date aforesaid, and to be answerable for his appearance until a final order be passed by the magistrate upon the said charge; in default whereof, I further bind myself to forfeit to Government the sum of one hundred rupees. In this I will not fail. Dated this 5th day of March 1841.

L. S. PEERBUX.

N. B. The forms of civil processes will be found in the Civil Circular Order Book.

No. 83.

To the several Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces, 24th March, 1841.

SEVERAL instances have lately occurred of defective indictments in trials meant to be referred to the Nizamut Adawlut under the circular order, dated 7th May, 1824, (No. 291, Part I.) in which the administering *dhutoora* with intent to rob has been charged, but the designation of *poison* not specifically adduced in the charge.

2. As such wording is indefinite and open to objection, the Court are pleased to direct that, in future, indictments in cases of the nature referred to shall be worded simply "administering *poison* or *poisonous* drugs with intent," &c. or "administering *intoxicating* drugs with intent," &c. (according as the circular order of 7th May, 1824 or 18th September last, No. 64 of this Part, may apply to the case,) the article given, whether *dhutoora* or other substance, being adduced in the evidence in support of the charge.

No. 84.

To the Civil and Session Judges, and the Magistrates and Joint Magistrates in the Bengal Districts.

Lower Provinces, 2d April, 1841.

IT being desirable that the proceedings of the civil and criminal courts recorded in the vernacular, should be generally intelligible, by the adoption of a style equally removed from the colloquial and that employed by the pundits, I am directed to request that you will pay particular attention to the subject, and refer your head ministerial officers, and the uncovenanted judges under

your control, to the Bengalee version of the Regulations of 1793, in regard both to the style which should be made use of by them and the terms which usually occur in legal proceedings.

No. 85.

To the several Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces. 30*th April*, 1841.

THE Honorable the Court of Directors having signified a wish that the course of procedure authorized by law, in cases where the local magistrates may be called on to adopt measures relative to insane British subjects, should be defined and communicated for the guidance of those officers, the Court circulate, with the sanction of Government, the following rules.

1. Whenever it may come to the knowledge of a magistrate that an European British subject, wandering about and at large within his jurisdiction, is deemed to be insane, it shall be competent to him to direct the transmission of such person, in custody of a proper guard, but with due precautions against needlessly harsh or severe treatment, to the sudder station, and cause him to be carefully examined by the civil surgeon; and if on such examination, coupled with other proof, the magistrate shall be satisfied that such British subject is so far disordered in his senses that it is dangerous for him to be permitted to go abroad, he shall send him under a proper guard,* and with his warrant under his seal and signature, accompanied with a certificate under the signature of the civil surgeon,† to the insane asylum at the presidency, securing, at the same time, the lunatic's property (should he have any) and intimating his state, in writing, to any relations or friends he may be known to have in India; and this rule shall not be understood to extend to prevent any such relation or friend that may be forthcoming from taking such lunatic with his property under his own care and protection.

2. The magistrate is authorized to attach and sell by auction any personal property such declared lunatic may possess, with a view to the proceeds being applied to the payment of necessary charges of removal, maintenance, clothing, medicine, and care of such lunatic; and he will keep an account of what expenditure

* The Western Court's circular ran thus : "and with a certificate under his seal and signature, to what may be judged the most convenient place for his reception and confinement, which, in most instances, will probably be the insane asylum at the presidency," &c.

† A descriptive roll is to be sent. See No. 104 of this Part.

he may himself incur on this head in his own office, and remit so much of the amount as may be needed to meet the above charges elsewhere.*

3. Whenever there may not be sufficient property, or no property at all forthcoming, and no relations or friends of the insane person may be discoverable to take charge of him, the magistrate is authorized himself to disburse the necessary expences for the removal of the lunatic to the asylum and his subsistence in transit, and charge the amount to Government in a contingent bill, to be submitted with the countersignature of the session judge or commissioner.

4. The magistrate will report each occasion of his acting under the above rules to the secretary to Government in the judicial department, soliciting special instructions with reference to any peculiar circumstances that may arise.

No. 87.

To the Magistrates and Joint Magistrates in the Lower Provinces.

Lower Provinces, *2d July*, 1841.

The Court, having understood that the security statements of native ministerial officers of the magistrates' courts, entrusted with public money, (which were required by the circular orders Nos. 34, 150, and 193, dated respectively the 23rd September, 1831, 3rd July, 1835, and 16th December, 1836, are forwarded to the superintendent of police, are pleased to dispense with your submitting such statements to them in future.†

No. 88.

To the Magistrates and Officers in charge of Jails, North Western Provinces, including Saugor and Kumaon.

Western Provinces, *2d July*, 1841.

The returns to the circular call for particulars regarding the working of the system of rations in jails in the North Western Provinces, having been considered by the Court, they now, with the sanction of Government, promulgate for general information and observance the following remarks and orders.

2. Certain modifications of the existing plan have been resolv-

* See No. 104 of this Part.

† The circulars attended to were issued by the Sudder Dewanny Adawlut.

ed upon, as stated below, and will take effect from the 1st proximo.

1st. The daily ration is reduced from 1 seer (80 sicca weight) to 12 chittacks* (60 sicca weight) that is, each convict will receive 10 chittacks of wheat flour, and 2 chittacks of "dall" daily, the latter to be replaced by an equivalent portion of vegetables, or rice, every second or third day, at the discretion of the magistrate —in addition to this a small quantity of salt, from ¼ to ½ a chittack, is to be served out to each prisoner daily, as an *indulgence*, and to be so explained,—2 chittacks of ghee, ½ a chittack of red or black pepper, and ½ a chittack of tobacco will likewise be distributed to each, *weekly*.

2d. The daily allowance of wood is limited to 1 seer, but can be issued in even less quantities, according as experience may show the amount requisite for cooking the above quantity of food, and it will be the duty of the officer in charge of the jail to see that no superfluous issue or subsequent waste occur in this article of expenditure.

3d. The practice of allowing prisoners to barter portions of their ration of "otta" for other food, having been found prejudicial, will be entirely stopped. The whole of the above articles will be *served out* to the convicts, every other article of food or luxury being strictly excluded from the interior of the prison, where no "buneea" or shop of any sort will be permitted to be located. Under this rule, properly enforced, no portion of the ration will, of course, be exchangeable, nor will any means be attainable to a convict for exchanging, if so inclined. In no case will a departure from this rule be allowed except under direct instructions from the civil surgeon, whose requisition must be made through the magistrate, and not in any way direct to the darogah himself. The hospital is, also, of course excepted from the operation of this general rule.

4th. Barbers and washermen are in future to be entertained on the part of Government, and the issue of the weekly pice to each prisoner for the purposes of washing and shaving, stopped; but it is expected that the charge on this account will not exceed the aggregate amount of the allowance of a pice per week per man heretofore paid by the state.

3. In carrying into effect the substitution of rations of food for a money subsistence allowance to prisoners, two plans have been advocated, viz. the formation of messes, and the distribution to convicts of cooked food, instead of raw flour or "dall;" the former plan has been in some jails partly introduced, though in some instances strongly opposed by the prisoners of the Hindoo persuasion. Government are of opinion that these measures ought not to be

* See No. 107 and 111 of this Part.

compulsorily enforced, if there be any good ground to believe that they will offend or violate the religious prejudices of the prisoners, or injure the future prospects of those who may be subjected to temporary imprisonment; while, on the other hand, should the real ground of opposition be repugnance to relinquish a practice which tends to lighten the irksomeness of confinement in jail, such an objection ought to be at once set aside.

4. Steps are in progress for ascertaining, as far as it may be possible, the extent to which these objections to messing and the acceptance of food cooked by others have tangible foundation or the reverse, and, in the mean time, the magistrates are exhorted to encourage the system of messing as far as they discreetly can, without having recourse to measures of compulsion, which they are distinctly to understand must not, until further orders, on any account be resorted to.

5. The plan of purchasing the wheat needed for consumption through a trusty agent, and having it ground inside the jail by the prisoners themselves, the Court find to have been already widely adopted, as a valuable means of providing good nutritious diet in the place of adulterated food, and thus conducing to the improved health of the prisoners. Its general introduction is no doubt desirable. But it must be borne in mind that trustworthy superintendance, and the unrelaxed personal exertions and scrutiny of the magisterial and medical authorities, are essential conditions of its success. Magistrates of any districts where grinding by convict labor is not yet in force, are recommended to consult the magistrates of Allahabad, Humeerpore, Furruckabad, or Barelly, in the jails of which districts its operation appears to be most effective.

6. The application of the Doab Canal mills to the grinding of flour for consumption in the Suharunpore jail, recommended by the medical officer (Dr. Falconer) and magistrate of that district, having been approved by Government, it is notified that the local authorities may proceed to carry the scheme into execution in such manner as may be found most advantageous.

7. As further connected with the health of the prisoners, the importance of providing means for their more frequent ablutions and greater personal cleanliness is worthy of notice, as exemplified in the salutary effect produced on the health of the Cawnpore convicts, from the permission given them to bathe in a tank adjacent to the prison. The same means may not probably exist in many districts for securing this object free of outlay; but Government is prepared to receive any plan for its attainment at a moderate expense, and considers that the attention of magistrates may in the mean time be advantageously directed to the subject.

No. 89.

To the several Criminal Authorities in the Lower Provinces.

Lower Provinces, 9*th July*, 1841.

WITH the sanction of Government, I am directed by the Court to communicate to you the following rules regarding rations; superseding those contained in the circular orders Nos. 24 and 28, dated respectively the 26th April and 23d August, 1839.

RULES.

1. Every prisoner in the criminal jail to be provided daily with dry or uncooked rations, and no money to be paid to the prisoners on any account whatever.

2. One seer of rice (the seer being 80 sicca weight) to be the standard of the quantity of food to be given daily to each prisoner in the jails in the Bengal Presidency. Each prisoner is also to be allowed one seer and a half of wood to cook his food, and one kucha of tobacco.

3. The magistrates shall be at liberty, on the written request of the civil surgeon, to give ¼ of a seer of rice more daily to such prisoners as he may consider proper, reporting the same to the Nizamut Adawlut.

4. The rations to be fixed agreeably to the following form and provided by contract:

Sunday, ...	Rice and vegetables.
Monday, ...	Rice and fish or meat.
Tuesday, ...	Rice and vegetables.
Wednesday, ...	Rice and dall.
Thursday, ...	Rice and fish or meat.
Friday, ...	Rice and vegetables.
Saturday, ...	Rice and dall.

5. Money is not on any account to be carried into the jail.

6. No bartering on any account to be allowed. The prisoners to be allowed only what is laid down in the foregoing form.

7. The medical officer of the station is to approve of the musters of the provisions. The musters to be sealed up in bottles or jars, and the contract to be reduced to writing.

8. All the prisoners in the criminal jail, those under examination or committed to the sessions only excepted, to be formed into messes.

9. Each mess to consist of 20 men as the standard number, and one cook to be allowed for that number.

10. List of any prisoners of the classes that ought to mess, but who for any special cause are exempted from messing, to be

submitted quarterly to the Nizamut Adawlut, with a column for remarks in which the cause of exemption is to be briefly stated.

11. In the morning when the prisoners go to work, the mess cooks to be employed in drawing water, cleaning the wards, washing the cooking utensils, receiving the rations from the contractor, and making the necessary preparations for cooking: after this the cooks to be employed in weeding in the jail.

12. The magistrates are to indent on the commissariat* for iron degchies or cooking pots, which will be proportioned to the size of the messes.

13. The surgeon of each station to see the prisoners at a meal at least once a week, and his visits to be at irregular intervals and unannounced.

14. A public register to be kept by the surgeon of his visits, in which is to be entered any remarks he may consider necessary regard the dieting of the prisoners. It will be the duty of the session judge to see that this register is regularly kept up.

15. Contractors to be allowed to build store-houses for their grain on any Government ground near the jail, and, provided the contract is duly performed one year by the individual erecting the same, one half of the cost of the store-house to be defrayed by Government.

16. In addition to the standard ration, one pice to be allowed for each prisoner for washing and shaving.

17. All washing and shaving to be performed by contract.

Remarks on the rules for regulating the dieting of prisoners in the Criminal Jails under the Bengal Government.

Rule 1st. This rule is to apply to every prisoner in the criminal jail, male and female, whether sentenced to imprisonment with labor or simple imprisonment, whether under examination by the magistrate or commitment to the session court. The magistrate of Mymensing has been prohibited from allowing 10 cowries daily to each man for the purchase of condiments, as opposed to this rule. The word, "provided," is not to be construed as rendering it necessary that the prescribed ration of each prisoner should be actually put into the hands of the prisoner himself; it will be sufficient to give it to his mess cook, as stated in Rule 11th.

Rule 2d. As a general rule the quantity of food to be given is to be regulated by the standard set up, viz. one seer of rice, exclusive of an adequate allowance of firewood and tobacco. This however, is not intended to limit the quantity to one seer, if that quantity be found really inadequate. According to the inform-

* See No. 97 of this Part.

ation before the Government one seer seemed to be sufficient, an opinion the correctness of which the experience of two years has greatly tended to establish; but if it be otherwise, it will be the duty of the magistrate to lose no time in reporting the actual facts. A contract entered into by the magistrate of Dacca, which gives each convict 1¼ seer of rice per diem, is at variance with the rule which limits the standard to one seer. The magistrates will be careful to observe that the standard is purely one of quantity and not of value. This observation would scarcely have been called for had it not been that, notwithstanding the clear and express provisions of the 1st and 2d Rules circulated on the 23d August, 1839, the magistrates of Midnapore and Sarun and the joint magistrate of Chumparun have acted as if the standard was one of value, by limiting the quantity of any other article, given in exchange for a portion of the prisoner's rice, to the value of the rice, instead of regulating it by the quantity of rice given in exchange.

Rule 3d. The magistrate will submit the report required by this rule, at as early a period as practicable after the receipt of the surgeon's written report. He will not, however, wait for the order of the Nizamut Adawlut on the reference, but comply at once with the surgeon's application.

Rule 4th. The form fixing the daily rations of the convicts has been prepared from the several returns furnished by the magistrates. The proportion of each kind of food and of condiments will be fixed by the magistrates, who will on this and other minor points consult the inclinations and habits of the prisoners. Should atta form the usual article of food of any of the prisoners, as will probably be the case in the districts of the Behar province, the magistrates will of course make the requisite alteration in the rations. In the event of any magistrate or surgeon considering that the form of fixed ration is not applicable to his district, he will submit a special report, with his reasons in detail, for the information of the Nizamut Adawlut. The report of the surgeon to be sent through the magistrate.

Rule 5th. Money is not to be carried into the jail, for this reason, among others, that it affords prisoners the daily enjoyment of marketing, which would be a great alleviation of the punishment of any class of men, but peculiarly agreeable to the Indian character. As this enjoyment has no good moral effect upon the prisoner, and tends to make the penalty of his crime less efficacious than it ought to be, the indulgence appears in this view an unmixed evil.

Rule 6th. It would be to no purpose to prevent marketing with money, if it were allowed to market by barter. The prison. ers therefore are not on any account to be allowed to barter. As already explained, they will receive such daily rations, within the

standard fixed upon, as the magistrate may determine, with reference to the form. The magistrates will be expected to attend carefully to the instructions on this point, which, though clear and express in the 15th Rule circulated on the 23rd August, 1839, have not been attended to by the magistrates of Rungpore, Noacolly, Chittagong, Midnapore, and Cuttack.

Rule 7th. A copy of this rule is to be furnished by every magistrate to the civil surgeon of his district.

Rule 8th. The magistrates will adopt measures for introducing the system of messes throughout the criminal jails, forming into messes all convicts whether sentenced to imprisonment with labor or simple imprisonment. In a few instances the state of the jail buildings has greatly impeded the magistrates in their endeavours to introduce the system of messes effectually. It is expected however that every exertion will be made to overcome such obstacles, and that the magistrates will not readily attend to the objections which (they may expect) will be urged against the full introduction of the plan. The instructions already issued on the subject of messes have not been properly attended to by some magistrates, and the reasons given for not introducing the measure into some of the jails, such as Beerbhoom, Shahabad, Noacolly, Chittagong, and Hooghly, are quite insufficient. In one district (Bhaugulpore) the food of the Mussulman convicts is cooked together, but served out separately by the cooks to each convict. This plan is at variance with the rule enjoining that the prisoners shall mess together.

Rule 9th. This rule lays down the number of men to a mess, fixing the standard at 20. This of course must vary according to circumstances, such as the sufficiency or otherwise of a number of men of the same caste to form a mess of 20, or other cause. The rule is not intended to be imperative, but to serve as a guide to the magistrate in distributing the prisoners into messes. In the formation of messes, the prisoners sentenced to labor should be kept separate from those sentenced to simple imprisonment. As the labor of the cooks will not equal that of the other convicts, well-behaved convicts might be employed as cooks; and a selection should be made from the convicts sentenced to labor, for cooking the food of the prisoners sentenced to simple imprisonment. These cooks must form an exception to the general remarks made above, regarding the separate messing of convicts sentenced to imprisonment with and without labor, and should mess with the prisoners for whom they cook.

Rule 10th. Exemption from messing should not be allowed for every trivial cause. The rule is that messes be formed, and the exceptions are to be as few as possible.

Rule 11th. This rule points out the mode of employing the cooks, who are not to be sent out with the working gangs. It is

probable that objections, on the score of caste, may be occasionally made by the cooks to cleaning the wards of the jail. These will of course meet with proper attention from the magistrates.

Rule 12th. Calls for no remark.

Rule 13th and 14th. Every magistrate will furnish the surgeon of his district with a copy of these rules.

Rule 15th. The contract system for providing the food, at a fixed rate all the year round, should be had recourse to where it is practicable. The contract should be made with due regard to economy, on the one hand, so as to protect the Government against unnecessary expense, and, on the other, to the health of the prisoner, so as to ensure for him the full allowance fixed by Government for his daily ration, which from the best information is not more than sufficient for a laboring man in good health. Though the expense of feeding a prisoner has not hitherto differed to any very material extent in many districts, in one or two districts it has fallen very far short of the usual average, while again in others it has far exceeded that average. Thus in the joint magistracy of Bograh, the expense of feeding a prisoner is very low, and in the 24-Pergunnahs very high. The difference between these two districts is nearly one hundred and seventy-five per cent. for the feeding of each prisoner. In Bograh the expense is probably too low, and the prisoners under-fed. In the 24-Pergunnahs the case is no doubt the reverse.

Rule 16th and 17th. Do not appear to call for any remark.

N. B. The foregoing rules are to be considered applicable in their full extent to the male convicts only. The magistrate may enforce them as far as he is able in regard to female convicts also; but the small number of female prisoners in most of the jails, will, in many instances, render the application of them impracticable.

No. 90.

To the Civil and Criminal Authorities in the Lower and Western Provinces.

Lower Provinces, 6th August, 1841.
Western Provinces, 8th October, 1841.

Under instructions from the Government, the Court notify, for general information, that the Honorable the Court of Directors have prohibited the creation and maintenance of unauthorized funds in the public offices, through the means of fines, or from deductions made from the pay of establishments; and have directed that sums thus accruing should be carried to the credit of Government.

No. 91.

To the Civil and Session Judges in the Lower and Western Provinces.

Lower and Western Provinces, 25*th August*, 1841.

The Court publish the following rule, determined on by the Courts of Sudder Dewanny and Nizamut Adawlut of the Lower and Western Provinces in concert, with the sanction of Government, for devolving on the head clerk of the zillah judge's establishment certain unimportant duties hitherto performed by the judge, with a view to the relief of the latter officer.

2. The judges are empowered, at their discretion, to employ their head clerks in the following duties:

Attesting copies of decrees and other documents granted to parties on stampt or plain paper under the judge's orders.

Attesting copies of proceedings sent to the local authorities and to other districts under the judge's orders.

Registering in English the mooktyarnamahs, and preparing them for the judge's attestation.

3. As a needful precaution against error and abuse, it is at the same time ordered that the head clerk, when entrusted with such duties at the discretion of the judge, is never to attach his signature to any document without its correctness having been previously attested and certified by the head ministerial native officer of the judge's court.

No. 92.

To the Session Judges, and the Magistrates and Joint Magistrates in the Behar Districts, including Monghyr.

Lower Provinces, 27*th August*, 1841.

With reference to the annexed extract of a letter from the superintendent of police, the Court are pleased to direct that persons accused of robbery and murder (or either of those crimes,) under circumstances justifying a suspicion that the crimes have been perpetrated by persons engaged in a systematic combination for such purposes, be in future made over to Captain Ramsay, the assistant superintendent in Behar, who is invested with the powers of joint magistrate in the Behar province, Monghyr included. It will be the duty of that officer to commit the persons so transferred, to be tried before the special session judge for the trial of thugs, and to make investigations as to the existence of combinations of the kind described, with a view to the suppression of the offences to which they give rise.

Extract (paras. 2 and 3) from a Letter of the Superintendent of Police, dated 2d instant.

Para. 2. I have no doubt however but that a combination exists along the lines of road frequented by travellers, pilgrims, &c. for robbery by this atrocious method, and that the dâk bearers, petty mooddees at the halting places, bhutearas, and common thieves, are concerned in it. I also think that it is carried on to a greater extent than is officially known, or generally suspected, and that many of the travellers, whose corpses, at the times of pilgrimage to Gyah or Hurree Chetra, are found by the roadside or at halting places, have met with their deaths from such means. The roads are so inadequately protected without any patrol, that there is always an opportunity for such a crime almost without a chance of discovery.

3. Several cases have lately occurred in Behar, Patna, and Shahabad; and I think it would be advisable to make all such trials over to the officers of the thuggee department for commitment to the thuggee session judge; for if, as I believe, there is a combination as above stated, it is more likely to be traced out by the cases being placed in the hands of one officer than by the divided investigations of separate magistrates.

No. 93.

To the several Magistrates in the North Western Provinces.

Western Provinces, 24th September, 1841.

The Court, adverting to the usual increase of mortality in the jails on the approach of the cold season, and to the necessity of mitigating, by all possible means, the evil effects caused by change of season to which much of the sickness is wont to be ascribed, take occasion to call the attention of magistrates to the circular order of the Nizamut Adawlut, dated 14th October 1836, No. 207, Part II. enjoining that all prisoners in confinement during the cold season, not already so provided, are to be furnished with blankets, which should invariably be issued on or before the 15th October.

No. 94.

*To the Session Judges in the Lower Provinces.**

Lower Provinces, 29th October, 1841.

I am directed to inform you that the Court are pleased to dis-

* This circular was not sent to the authorities in Orissa.

pense with translations of all proceedings in criminal trials referred to them, with the exception of those cases, tried with the assistance of the law officer, in which the session judge may recommend a capital sentence.

No. 95.

To the Civil and Criminal Authorities in the Lower Provinces.

Lower Provinces, 19*th November,* 1841.

An instance having been brought to the notice of the Government, of an improper mode of address towards a native gentleman of rank by a public functionary, I am directed to request that you will be careful that native gentlemen, and particularly those of high rank, are addressed in all public documents in a courteous style suitable to their station in society.

No. 96.

To the several Civil and Criminal Authorities in the Lower Provinces.

Lower Provinces, 3d December, 1841.

The Court, having observed in various instances, that the proceedings and orders of the different courts of justice are headed with the names of the heathen deities, desire me to request that such practice may be discontinued in all orders of the courts and processes emanating therefrom.

2. At the same time, I am directed to observe that the above order has no reference whatever to petitions, documents, or papers of any kind which may be presented to the courts, in regard to which you will be careful to abstain from all interference.

No. 97.

To the several Criminal Authorities in the Lower Provinces.

Lower Provinces, 17*th December,* 1841.

In modification of Rule 12 of the circular order of the 9th July last (No. 89 of this Part) which authorizes magistrates to indent on the commissariat for iron degchees or cooking pots, I am directed by the Court to intimate to you that magistrates are to make their own arrangements for procuring those articles.

No. 99.

*To the several Criminal Authorities in the Lower and Western Provinces.**

Lower and Western Provinces, 6th January, 1842.

I AM directed to communicate, for your information and guidance, the following observations and rule.

2. The Court observe, that in the execution of sentences of capital punishment in this country, accidents proceeding from the breaking of ropes made use of to hang criminals, are by no means of unfrequent occurrence.

3. In the generality of instances such contingency is without doubt the result of a want of management and due care and foresight, on the part of the officers charged with the execution of the sentence, to whom it cannot but be regarded as exceedingly discreditable. Its effect is equally injurious and to be deprecated, whether the accession of physical suffering caused thereby, or the disturbance of the solemn impression meant to be conveyed and of the operation of the spectacle as a moral example, be considered.

4. The Court are accordingly pleased to direct that in future certification of the execution of a capital sentence shall include an announcement of no accident, error, or other misadventure having occurred; any occasion of the occurrence of such contingency, with a statement of its cause, of the party to whose fault it was owing, and of the steps taken in consequence, being duly notified in the return warrant.

No. 100.

To the Session Judges and Magistrates in the Lower and Western Provinces.

Lower Provinces, 7th January, 1842.
Western Provinces, 28*th January,* 1842.

IN directing the attention of the officers concerned to the provisions of Act XXXI. 1841, as regards criminal appeals, the Court request they will observe—

First.—That every order of an assistant to a magistrate not vested with special powers, of a principal sudder ameen, sudder ameen, or law officer, passed in a criminal trial, or proceeding, is appealable to the magistrate, or other officer exercising the powers of magistrate, whose decision on the appeal is final.†

Secondly.—That every sentence, or order of a magistrate, joint magistrate, or assistant, vested with special powers, awarding a

* This circulars was not inserted in its proper place among the circular of 1840 in the first printed edition, and has not been replaced as it would make confusion in the numbers.

† See Nos 156 and 159 of this part.

higher punishment than that prescribed by Sections 8 and 9, Regulation IX. 1793, for the Lower Provinces, Section 4, Regulation XVI. 1795, for Benares Province, and Sections 8 and 9, Regulation VI. 1803, Ceded Provinces, is appealable to the session judge, whose decision is final.

Thirdly.—That the law allows no appeal to the session judge from the sentence of a magistrate, joint magistrate, or assistant vested with special powers, awarding a punishment within the limitation prescribed by the abovementioned enactments.

Fourthly.—That every order of a magistrate, joint magistrate, or assistant possessing special powers, passed in any judicial proceeding, other than a criminal trial, is appealable to the session judge, whose decision thereon is final.

No. 101.

To the several Magistrates and Independent Joint Magistrates, in the North Western Provinces.

Western Provinces, 25th January, 1842.

With the sanction of Government, the Court of Nizamut Adawlut publish, for the information of magistrates, extract (paragraph 9) of a report on criminal justice by Mr. Pidcock, officiating additional session judge of Bareilly, detailing a scheme devised by that officer, and carried into effect in the Bareilly jail, for giving suitable employment to convicts under sentence of imprisonment for life within the prison. The plan appearing to possess many recommendations, is made public, as a hint to officers in charge of jails, who will exercise their discretion whether, when, and to what extent, they may find its introduction practicable or desirable. It encountered a rather determined opposition on the part of the prisoners in the Bareilly jail, at first, but was ultimately carried into successful effect through the resolute and discreet measures of the magistrate, Mr. R. H. Clarke, with whom it would be advisable for any magistrate, desirous of trying the experiment, previously to communicate. Corn-mills of the description used at Bareilly are, it is understood, best procured at Agra.

Extract of a Letter from the Officiating Additional Session Judge of Bareilly to the Register Nizamut Adawlut, North Western Provinces, dated 12th April, 1841, No. 30.

Para. 9. While on the subject of prison discipline, I may be allowed to allude to a system of labor devised for the most hardened and desperate characters confined in the Bareilly jail, and

who have hitherto escaped all labor in consequence of the dread entertained of them, and the fear of their escape. In my report on prison discipline, the system of grinding atta for the consumption of the convicts by means of large mills was brought to the notice of the Court. It subsequently occurred to me, that the labor of the most desperate prisoners might readily be substituted for that of bullocks. The suggestion was made to, and at once adopted by the magistrate—16 convicts are employed at each mill—four at a time, in propelling each end of a horizontal bar, by means of which the stones are put in motion. As the labor is severe the sets are relieved every half hour, and the work is carried on without interruption from the morning till evening. A wall is constructed so high as effectually to screen the prisoners employed, and to prevent their being amused by what is going on outside, and they are not allowed to converse, or to make any noise. The quantity of atta ground daily by 16 men is two maunds, and is equal in quantity to that produced by the labor of four bullocks. After years of indolence this description of labor is any thing but palatable to the convicts employed, and they did all in their power to resist it. It appears to me a most admirable mode of punishment, and to possess all the advantages of a tread mill without any of the drawbacks attending that mode of punishment. As other magistrates may have experienced the same difficulty in providing suitable employment for the most hardened convicts in their jails, perhaps the system here described may be deemed worthy of more general adoption.

No. 102.

To the Session Judges and Magistrates and Joint Magistrates in the Lower and Western Provinces

Western Provinces, 25th January, 1842.
" *Lower Provinces, 25th February,* 1842.

It is hereby notified, that the principle of the rule in paragraph 4, of circular order of the Nizamut Adawlut, dated 12th June 1840, (No. 53 of this Part) has been held to apply to cases of *assault* by the Courts of Calcutta and Allahabad, who observe that, while certainly the character of the offence of assault may frequently be more grave, when committed with deliberation, and so far differ from the prevalent descriptions of affray arising from sudden quarrels, still it may safely be left to the discretion of the magistrate to commit or dispose of the case himself, with reference to the nature of the injury, and the apparent intent of the aggressor.

No. 103.

To the several Session Judges and Magistrates in the Lower and Western Provinces.

Western Provinces, 25th January, 1842.
Lower Provinces, 6th May, 1842.

INSTANCES being of frequent occurrence in which, owing to the removal of session judges towards the end of the year, and the unacquaintance of their successors with the circumstances of the district, reports are sent up nearly blank; Government have signified a wish that the Court "will frame some rule by which such deficiency of information may not again occur from such a cause, and require session judges, on removal from the station, to place on record their sentiments and opinions on the administration of those subordinate to them, up to the period of their quitting the office of control." The Court, therefore, direct that, as laid down for the civil department by paragraph 9, of circular order, No. 28, dated Lower Provinces 7th, and Western Provinces 21st December, 1838, the session judges will invariably, prior to delivering over charge of their offices on quitting a district, record a minute, to be made over to their successor, containing the particulars referred to, and any other observations, or results of experience, they may deem necessary or useful. The above rule is also applicable to magistrates under similar circumstances.

2.* The following extract of the orders of Government is, at the same time, appended relative to the responsibility of magistrates, as explained in the circular issued by order of Government in the judicial department to commissioners, under date 19th, and published in the Gazette of 27th April, 1841, to which the particular attention of those officers is called. "His honor deems it right to take this opportunity of intimating to the magistrates generally, through the Court, that they will not be exonerated from the responsibility, which attaches to their office, by urging, in extenuation of mal-administration, that the criminal duties were intrusted to the joint magistrate. On this subject a circular was addressed to commissioners on the 19th April, 1841, and the Court are requested to press the purport of the admonition it contains on the attention of all the judicial functionaries under their control."

No. 104.

To the several Magistrates in the Lower and Western Provinces.

Lower Provinces, 28th January, 1842.
Western Provinces, 18th March, 1842.

THE Court direct that magistrates who may send insane persons

* This paragraph was not circulated in the Lower Provinces.

to any of the insane hospitals, or to the asylum at the presidency will forward, with each patient, a descriptive roll, in the annexed form, with the column of remarks filled up by the surgeon of the district in those cases in which the patient has been attended by him.

Descriptive Roll of Insanes forwarded to the Insane Hospital of ——— from Zillah———.

Name of Patient.	Names of near relatives or members of his family.	Place of residence, including names of Village, Pergunnah and Zillah.	Caste, occupation or trade.	Age.	List of articles as cloths, &c. belonging to the patient and sent with him to the asylum.	Circumstances that led to the patient having been put under restraint and sent for confinement in the asylum.	Remarks. A brief history of the case, the supposed cause of insanity, &c.

* Column 3.	Column 4.
Place of residence, profession, and age.	List of patient's property sent with him to asylum, as well as of any sold to meet charges, with amount realized by such sale.

2. In the case of insane European British subjects sent under circular order, dated 30th April, 1841, (No. 85 of this Part) columns 3, 4, 5 and 6 may be compressed into two columns, as shewn in the margin.*

No. 105.

To the Magistrates in the North Western Provinces.

Western Provinces, 4th March, 1842.

THE Court direct that whenever convicts, under sentence of imprisonment for life, or a limited period, may effect their escape from jail or the custody of their guards, magistrates, or other officers under whose charge they are, will forward without delay a notification in the form given below for publication in the Agra

Government Gazette, accompanying the same with a translation into Oordoo, to the Government translator.*

Descriptive Roll of Convicts sentenced to imprisonment for life (or —— years) who escaped from confinement on the ——— of ——— 184—.

Name of Prisoner.	Caste and Age.	Residence.			Crime and date of sentence.	Whence escaped.	Remarks.
		Village.	Pergunnah.	District or Country.			
							To contain description of fugitive's person, notice of any reward offered for his apprehension, or other particulars.

A. B., *Magistrate.*

MAGISTRATE'S OFFICE,
Zillah ——, *the* — *of* —— 184—.

No. 106.

To the Session Judges, Magistrates and Joint Magistrates in the Lower and Western Provinces.

Lower and Western Provinces, 18*th March*, 1842.

WITH reference to the provision in Section 5, Act XXXI. 1841, for the sessions and magisterial authorities being empowered to call for and examine the records of courts immediately subordinate to them, to satisfy themselves as to the proceedings of such courts being regular, but without power to *alter* any sentence or order of such courts, save on appeal regularly made under the

* The following circular order dated the 30th January, 1843, was published in modification of the above.

The notifications of the escape of convicts, publication of which was enjoined in the circular order, dated 4th March, 1842, having been found to occupy more space than their importance seems to deserve, the Court, in modification of that circular, are pleased to direct that, in future, magistrates will send for publication such notices only as concern escaped convicts for whose re-apprehension a reward may have been sanctioned of Rupees 100, or upwards.

Act, the Court notify, that it is the duty of the authorities alluded to, to report any cases, the circumstances of which, on revision, may suggest the propriety of interference, to the Nizamut Adawlut, in order that that Court may proceed respecting them as shall appear proper.

2. Such reports will always be accompanied by the record of the case to which the reference relates, and by an English letter commencing—" Under Section 5, Act XXXI. 1841, and circular order of the Nizamut Adawlut, dated 18th March, 1842, I herewith transmit the record of the case noted in the margin, to be laid before the Nizamut Adawlut, with the following report."—Thereafter will follow a concise account of the irregularity, or other matter, on which the interference of the Court is sought. The magisterial authorities will send these reports, for submission to the Court, through the office of the session judge, to whom they may be subordinate.

3. In thus apprising the local officers of the duty devolving on them under the Act recited, the Court abstain from entering into any detail of the particular occasions on which such reports may require to be made, or attempting to define what descriptions of grave irregularity of procedure, undue severity of punishment, &c. may call for the adoption of the course. It is deemed sufficient to enjoin the officers in question, generally, to exercise a sound discretion in making references to the Court under this rule, so that neither important errors and omissions may escape correction, nor the time of the Court be needlessly engrossed by matters not demanding their interference.

4. Session judges, in referring trials under Section 6 of the Act above quoted, will always indicate the same in the commencement of their letter in form following: " I herewith transmit, to be laid before the Nizamut Adawlut under Section 6, Act XXXI. 1841," &c. &c.

No. 107.

To the Magisterial Authorities in the North Western Provinces.

Western Provinces, 4th May, 1842.

The Court, having received some statements that give reason to doubt how far the reduced allowance of daily ration to the prisoners, viz. 12 chittacks of meal, prescribed by circular order, No. 88, dated Western Provinces, 2d July last, is quite adequate for the maintenance, in a state of strength and fitness for hard labor, of those convicts, among the inmates of the jails, who are subjected to hard work on the roads, and exposed to the ardor of the sun, deem it proper, while they as yet see no grounds for

any general modification of the order above quoted on the plea of the scale of diet sanctioned by it being too low, in respect to any other classes of prisoners, at the same time to accord a conditional discretion to magistrates, in communication with the civil surgeon, and with the assent of that officer, to increase the daily allowance of 3-4ths of a seer, to hard worked and exposed convicts only, in any measure within the limit of one seer—whenever there is good reason to conclude that failure of health and strength in such prisoners is connected with the insufficient quantity of food allowed them.

2. This discretion should be exercised with caution, and only in manifest cases of exigency, and its effect watched, that means may be afforded for judging whether improvement in the sanitary state of the prisoners to whom the indulgence is extended is the consequence.*

No. 108.

To the Session Judges and Magistrates and Joint Magistrates in the Lower and Western Provinces.

Lower Provinces, 10th June, 1842.
Western Provinces, 1st July, 1842.

Much diversity being believed by the Court to exist in the mode of marking convicts sentenced to imprisonment for life on the forehead by the process of "godna," such process being often carried into effect in a very imperfect manner, so as to escape observation, or admit of easy effacement, a relaxation of the rule which is understood to prevail chiefly in the case of the more influential prisoners, the Court of Nizamut Adawlut for the Lower and Western Provinces, adverting to the declared object of the infliction of "godna," viz. to facilitate the re-apprehension of convicts under perpetual imprisonment, who may escape from prison, are pleased to prescribe the following rules.

1st. The particulars required by law to be inscribed in the performance of "godna" shall invariably be marked upon the forehead of the convict *immediately above the eye-brows*, in a straight line, the injunction in Clause 4, Section 12, Regulation XVII. 1817, for the performance of the operation early in the morning, the adoption of precautions against effacement in the course of the day, and the subsequent renewal of the inscription, when illegible, being duly observed by the magistrates.

2d. It is the duty of every magistrate personally to examine each prisoner on whom "godna" may have been inflicted; and for any deviation from, or neglect of, the rule now laid down, which may occur, that functionary will be held responsible.

* See Nos. 111 and 168 of this Part.

No. 109.

To the several Civil and Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces, 20th June, 1842.

THE Court are pleased to republish for general information, the subjoined notification of Government, dated 29th December, 1835, interdicting the engagement of the native judges of all grades and of the law officers of the courts, in any trading speculations; and they request the judges will direct to that order the particular attention of the officers concerned.

Notification.—Judicial and Revenue Department, the 29th December, 1835.

The principal sudder ameens, sudder ameens, and moonsiffs, and the Mahomedan and Hindoo law officers of the zillah and city courts, and of the Sudder Dewanny Adawlut under this presidency, are hereby prohibited, under pain of dismissal from office, from being engaged in any trading speculations.

If any principal sudder ameen or other of the officers abovementioned shall be now engaged in trading speculations, or any such speculations shall devolve on him by inheritance, it shall be incumbent on him, within one month, to make known the circumstance to the zillah or city judge, or to the register of the Court of Sudder Dewanny Adawlut, and terminate his connection with such transactions at the earliest practicable period. Should he be unable to do so, within one year, he shall either resign his situation, or submit a report of the circumstances of the case to the judge or register, who will forward it to the Government or Court of Sudder Dewanny Adawlut, as the confirmation of the officer may be vested in one or other of those authorities, with his own opinion as to the propriety of allowing the officer a further period for the purpose of bringing his transactions to a close. If any of the officers abovementioned shall fail to conform to the above rule, the same penalty shall attach to him as if he had engaged in trade subsequent to the publication of this order.

Candidates for any of the offices abovementioned shall certify in their applications that they are not engaged in any trading speculation; and in the event of their being appointed, and of its being subsequently discovered that they were so engaged at the time of making their application, they shall be liable to be dismissed from office.

No. 110.

To the Civil and Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces, 24th June, 1842.

PUBLIC officers are hereby informed, that a rule has been established, under directions of the Supreme Government, for all references regarding chemical questions and operations on account of Government being made direct to the professor of chemistry, Medical College, Fort William, who is privileged to issue and receive letters connected with his department free of postage.*

No. 111.

To the several Magisterial Authorities in the North Western Provinces.

Western Provinces, 24th June, 1842.

THE Court of Nizamut Adawlut request that in any instance, in which magistrates or officers in charge of jails, may have found it expedient to act on the discretion allowed by the circular order, No. 107, dated Western Provinces, 4th ultimo, in respect to a conditional increase of the daily ration to a certain description of convicts, they will report having done so, within one month from the date of the Gazette, in which this order appears, as also whenever they may act on it in future, for the information of the Court, submitting, at the same time, copies of any correspondence, with the medical officer or other public authority, which may have passed, as well as of any opinion that may have been recorded on the subject of the adequacy, or otherwise, of the ration of 3-4ths of a seer daily.

No. 112.

To the Civil and Criminal Authorities in the Bengal Districts.

Lower Provinces, 24th June, 1842.

IT appearing that proceedings in Bengalee are occasionally sent to authorities of districts where Urdu is the vernacular, I am directed by the Court to request that you will strictly conform to

* See Nos. 129, 146, and 164 of this Part.

the 7th of the Rules circulated on the 5th July, 1839, which relates to correspondence with other districts.*

No. 113.

To the several Session Judges in the Lower and Western Provinces.

Lower and Western Provinces, 1st July, 1842.

The Court of Nizamut Adawlut publish the following instructions, regarding the applicability of the provisions of Act XXXI. 1841, to the orders passed by magistrates on the cases of persons detained in confinement, in default of security for good conduct, agreeably to Regulation VIII. 1818.

2. Under Clause 2, Section 8, of that Regulation, those cases, in which the demand for security does not exceed one year, do not need to be laid before session judges: such cases consequently are not in future to be revised by session judges, except on appeal by the parties.

3. But those cases, in which security for more than a year is demanded, must still be submitted, for confirmation, to the session judge, who is competent, under Clause 2, Section 9, of the enactment cited, to modify or annul the orders passed by the magistrate, should he see grounds for so doing.

No. 114.

To the Magistrates and Joint Magistrates in the Lower Provinces, and the Principal Assistants in the Provinces of Assam, Arracan and Hazareebaugh.

Lower Provinces, 1st July, 1842.

It being considered by Government, that the labor of convicts might be advantageously directed to the manufacture of country paper, and a very successful experiment having been made by Mr. Leycester, magistrate of Hooghly, the Court request you will inform them, after a perusal of the report of that experiment, (hereto subjoined,) whether you possess facilities for making an attempt of the kind.

2. It is to be borne in mind that the conduct of such an expe-

* The Rules here alluded to were circulated by the Sudder Dewanny Adawlut. The 7th ran thus:—"The authorities in the Bengal Districts shall correspond with each other in the vernacular language, and employ the Oordoo in their correspondence with the courts of other districts.—The same rule shall be observed, *mutatis mutandis*, in Cuttack and the other provinces subject to the jurisdiction of this Court."

riment requires not only the possession of zeal and energy in the officer who undertakes it, but such local advantages as a convenient site for the manufactory, materials for the manufacture, and workmen willing to teach the business to the prisoners who may be selected for the work.*

3. Specimen sheets of the paper manufactured at the Hooghly jail accompany.

From the Magistrate of Hooghly to the Court, dated the 22d December, 1841, No. 788.

I have the honor to acknowledge your letter, No. 1505, dated 30th April, 1841, together with its accompaniments, and, in conformity with the orders therein contained, beg to submit for the information of the Court as follows:

2. A shed, 24 feet long by 18 feet, for the preparation of the material into pulp, and a hut for a drying house, 12 feet by 8 feet, having been erected,—I engaged a native manufacturer of paper and his assistant to superintend operations and teach the prisoners the art, and in July the manufacture of paper was commenced in this jail. The cost for the erection of the houses and purchase of some implements of manufacture was trifling—Rupees 38-4-0.

3. The implements used for the manufacture are as follows:

First.—A dhenkee or large wooden beam, in length 12 feet, and 2 feet 7 inches in circumference, moving on a pivot and worked by twelve men. The hammer of this is shod with iron, and descends with great force on a buried stone, upon which the material is thrown up as required, and is thus beaten to a pulp. Two of these stamping rods have been erected.

Secondly.—Five or more of gumlahs, some of which are used for soaking the raw material and cleansing it with lime; the others act as cisterns for the reception of the pulp when sufficiently beaten and prepared for the mould.

Thirdly.—The mould, which consists of a wooden frame, in size 22 by 19 inches, on which the sieve is stretched.

Fourthly.—The sieve, made of very fine stripes of well seasoned bamboo, about 24 to the inch, and joined together by horse hair in the length of the sieve, the rows of thread being not quite an inch apart—great nicety is required in making this.

Fifthly.—Common mats on which the stuff is spread out to dry and bleach, and on which the prepared paper is stuck to dry. Boards and stones for rubbing and polishing it, and knives for cutting it, are the only further articles that are requisite.

* This circular contains no standing rule, but it is retained for the benefit of magistrates who may wish to adopt the method described for the manufacture of paper, in other jails possessing the "local advantages" there spoken of.

Process.

4. The material with which it is proposed to manufacture having been selected, well dusted, and cleansed, is put into water in which lime has been mixed in the proportion of one maund of stuff to half a maund of lime; while thus soaking it is trodden on by the feet for two or three hours, then taken out and exposed in heaps for two or three days; after which it is beaten by the dhenkee, or stamping rod, for about four hours; and the lime is then washed out of it completely. The material is again soaked in fresh lime-water, and spread out for two or three days in the sun to dry and bleach; the stuff thus made is again beaten for eight or nine hours, and after three or four such processes, the pulp having been washed free of the lime, is ready for the mould. It is then thrown into large gumlahs of water, and being agitated quickly for an hour or two, is brought to an uniform consistence. The manufacturer then dips the mould half way into the stuff taking up sufficiently of it to form a sheet of paper of the required size and stoutness, and by shaking it gently covers the mould with it. Great nicety is here required; for if the frame be not held perfectly level, one part of the sheet will be thicker than another. The sieve is then taken off the mould and carefully laid on a frame covered cloth, against which the sheet is pressed by gently rubbing the back of the sieve with the hand: the sheet adheres to the cloth, and, the sieve being removed, the paper is made.

Drying the paper.

5. The sheets of paper are thus laid upon the other until a heap of some 12 quires is raised, which is kept in a slanting position to permit as much water as possible to drain off; after remaining so for a day or two, the sheets are separated (this is easily done by the help of a brush and a little nicety of hand,) and being stuck on mats are exposed to the sun to dry, which takes about four to five hours The paper is then taken to the jail of the female prisoners to be sized.

Sizing.

6. Upon the care and nicety with which the sizing is given, it appears to me much depends. The size is made of flour of best rice—1 seer of rice to 3¼ seers of water. I have tried finely powdered alum ground up with oil, a little of which added to the size in common use improves it materially. The size is laid on each sheet separately with the pod of the dundhool (luffa pentandra) which grows wild. When one side is dry, the size is applied to the other. The paper thus sized is sent back, and, being placed

on a plank, is rubbed on both sides with a stone, by which operation, performed twice or oftener, a polish is given to it. It is then ready for use.

7. I have the honor to forward seven specimens of paper manufactured since the commencement of operations in July—the material used for each sort is marked on the specimen. The rainy season is unfavorable for this manufacture, but during the cold weather I hope to be able to make further experiments with different sorts of materials. Since July 53 bundles and 21 quires of paper have been manufactured, and some of the prisoners have made considerable progress in learning the art. Four of them understand it so well, that I have been able to dispense with the services of one of the native manufacturers. These prisoners have themselves made 309 quires in the past month, specimens of which I beg to submit. They cannot make the bamboo sieve, but if wire frames were to be supplied, as they have been to Dr. Campbell at Darjeeling, the learning this task may be dispensed with. Should the prisoners continue to improve, and I see no reason why they should not, we shall be independent of the native manufacturers in a very short time.

8. The monthly expenditure of country paper in the civil and criminal courts is about 400 quires, and, judging from the rate of manufacture, they can be supplied from the jail with a far better material than I can obtain from the bazar, and at cheaper rate than the allowance made by Government. I beg to submit a regular account of the expense of manufacture and the paper in store, and request the sanction of the Court to write off the sum of rupees 78-12-0 expended for the materials in my contingent bill.

No. 115.

To the several Civil and Session Judges in the Lower and Western Provinces.

Lower Provinces, 8*th July*, 1842.
Western Provinces, 30*th Sept.* 1842.

I AM directed by the Court to request that whenever any of the ministerial officers attached to your court, receiving a salary of not less than 10 rupees a month may be dismissed from the public service for misconduct, a report of the same be submitted, according to the annexed form, with a view to a register of their names being kept in this office, in conformity to orders recently received from the Honorable the Court of Directors.

2. An extract from the register will be forwarded to you annually, to enable you to guard against the admission of improper persons into the public offices.

Form.*

Ministerial Officers of the Civil Court of Zillah —————— dismissed from office for misconduct.

1	2	3	4	5	6	7
Name of the Employeé.	Name of his Father.	Office held by him.	Cause of Dismission.	Date of Dismission.	Description of his person.	Remarks.

No. 116.

To the several Criminal Authorities in the Lower and Western Provinces.

Lower Provinces, 12th August, 1842.
Western Provinces, 26th September, 1842.

The Court notify that with reference to the circular order No. 38, of the 25th February 1820,† which authorizes the payment to the nazirs of the civil courts of a commission of one anna per rupee on the proceeds of unclaimed property of persons dying intestate, which may be sold by them, the Government have been pleased to sanction the extension of the rule to the nazirs of the foujdarree courts, who may be ordered to sell unclaimed property.‡

No. 117.

To the several Criminal Authorities in the Lower and Western Provinces.

Lower Provinces, 26th August, 1842.
Western Provinces, 4th November, 1842.

The Court are pleased to direct that it be explained to the darogahs and other police officers, that they are to make use of the

* This form includes the additional column prescribed by the subsequent circular No. 125, of this Part.

† Circular order of the Sudder Dewanny Adawlut, Vol. 1, Part II.

‡ The distinction between the two kinds of property is pointed out in circular order No. 3 of this Part.

form of declaration circulated on the 3d April 1840, (No. 44 of this Part) in all cases wherein they are authorized by the Regulations to take a deposition on oath, by causing the deponent to repeat the words of the form before giving his deposition, and stating at the head of the written deposition that he was sworn according to the provisions of Act V. 1840.

2. Copies of the forms of declaration in Bengalee and Urdu are forwarded herewith,* for the use of the thannas of every district.

No. 119.

To the Session Judges in the Lower and Western Provinces.†

Lower Provinces, 16th September, 1842.
Western Provinces, 15th October, 1842.

The Court, having reason to believe that some of the session judges continue to act upon Construction 940, in regard to appeals from the orders of the magistrate preferred by officers attached to the jails, are pleased to declare that the Construction in question must be held to be superseded by Act XXXI. 1841, the second section of which provides, that *all* orders passed by a magistrate in judicial proceedings other than criminal trials, are appealable to the session judge.

No. 120.

To the several Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces, 1st October, 1842.

With reference to an instance of recent occurrence of a dacoit prisoner in progress from one district to another having killed the guard in charge of him, the Court, under instructions from Government, caution public officers against ever suffering a prisoner, charged with a heinous offence, who may be under transmission from one station to another, to proceed under such inadequate custody as the charge of a single burkundaz. The crime of which a prisoner under such despatch is accused should also be invariably written in the perwannah meant to accompany the despatch.

* For the forms see Appendix.

† See letter from the under secretary to government, in the Appendix.

No. 121.

To the Civil and Criminal Authorities in the Lower and Western Provinces.

Lower Provinces, 21*st October*, 1842.
Western Provinces, 28*th December*, 1842.

THE Court are pleased to direct that officers indenting on the Government lithographic press for forms of statements, &c. will forward to the superintendent, with their indents, a specimen of the smallest size of paper on which the forms may be executed without material inconvenience.*

No. 122.

To the Civil and Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces, 4*th November*, 1842.

WITH the sanction of Government, it is notified for the information and guidance of all public officers at the head of establishments, containing records, that in future any officer who permits the records of his office to fall into disorder shall be held responsible to Government for the expenses incurred in their readjustment, and any functionary receiving charge of an office, the records of which may be in disorder or so immethodically arranged as to prevent the ready production of papers when called for, who shall fail to make a timely report of their state, will be similarly held answerable for the outlay attending the assortment of the records.

No. 123.

To the Criminal Authorities in the North Western Provinces.

Western Provinces, 16*th December*, 1842.

VARIOUS references have from time to time been made to the Court of Nizamut Adawlut since the passing of Act XXXI. 1841, as to the competency of a judge of sessions, under the terms of that law, to direct the apprehension, with a view to commitment for trial, of a person, the charge against whom has, either with or without the arrest of the party, been investigated and dismissed by the magistrate, on the ground of the insufficiency of the proof against him, or from other cause; in cases which would, if pro-

* See No. 169 of this Part.

ceeded with, be respectively within or beyond the magistrate's power to dispose of on trial by a final order.

2. In respect to cases of the former description, viz. those which the magistrate could decide of his own authority, the Court have communicated their opinion that the order of that officer for dismissal of the charge must be viewed as a legal acquittal; and could not, in any view, be considered tangible by the sessions court.

3. As regards the other sort of cases, viz. those beyond the magistrate's competency to try, the Court deemed it expedient temporarily to adopt (under protest, and holding themselves a different opinion,) the view of the Nizamut Adawlut in Calcutta against the power of interference of the sessions court, pending the result of a reference on the subject which they had requested might be made to the Legislative Council; and instructions of a corresponding tenor were accordingly issued in reply to the references made.

4. The remarks of the Supreme Government having been recorded in the matter, the Court of Nizamut Adawlut, North Western Provinces, resolve to maintain their view of the power of interference of the sessions court in the case stated in paragraph 3, and they intimate the same, as a rule of practice; further observing that session judges, in exercising this power, should use caution and discretion, and never subject to commitment and trial, without good grounds, a person in such case released by the magistrate.

No. 124.

To the several Session Judges in the Lower and Western Provinces.

Lower and Western Provinces, 29th December, 1842.

THE Courts circulated the following Resolution for the information and guidance of the criminal authorities.

Resolution of the Presidency Court of Nizamut Adawlut under date the 21st October, 1842.

It having been brought to the notice of the Court, that a session judge has overruled the proceedings of a magistrate in which he held the provisions of Act IV. 1840, to be applicable to a case involving disputes for the possession of land between a landlord and putneedar, on the ground that by the rule laid down in Construction No. 579, of the 17th December 1830, such cases could not be brought under Regulation XV. of 1824, and because he conceived the zemindar entitled to the privileges of an auction purchaser,

and therefore entitled to oust the putneedar, they deem it proper to record the following Resolution explanatory of their construction of Act IV. of 1840, for the future guidance of the several session judges within their jurisdiction.

RESOLUTION.

With reference to the very general terms of Act IV. of 1840, the Court are of opinion that its applicability cannot be confined within the narrow circle of Regulation XV. 1824, which has been repealed by the present law, by which it is evidently intended to empower the magistrates to enquire into disputes, relating to the possession of lands, of which, before the passing of that enactment, they were not competent to take cognizance.

No. 125.

To the several Civil and Session Judges in the Lower and Western Provinces.

Lower Provinces, 30th December, 1842.
Western Provinces, 3rd March, 1843.

To guard against the possibility of dismissed officers obtaining service in other districts by change of names or other means of disguise, the Court are pleased to direct the addition of a column, containing a descriptive roll of the dismissed officer, to the form prescribed by their circular order, No. 115, Lower Provinces 8th July, Western Provinces 30th September last.

2. The extracts from the register of public servants dismissed for misconduct, which may be sent to you from this office, should be communicated to the several authorities of the district, so as to make the register of each department available to the heads of the other departments.

No. 126.

*To the several Criminal Authorities in the Lower and Western Provinces.**

Lower Provinces, 18th June, 1841.
Western Provinces, 23d July, 1841.

THE Court, having had occasion to take into consideration

* This circular was not inserted in its proper place among the circulars of 1841, in the first printed edition, and has not been replaced as it would make confusion in the numbers.

the state of the law of perjury as ruled by precedent* at page 282, of the 1st volume of the Nizamut Adawlut Reports, are of opinion that the mere fact of a witness having wilfully given two statements directly at variance with each other, on a point material to the issue of the case in which he gives his testimony, must be held to be perjury, and that the deponent, on conviction, is punishable accordingly. This opinion is in conformity with the exposition of the Mahomedan law given in the paragraph at the bottom of page 21 of the 2d volume of Constructions.

2. Under this construction of the law, the precedent cited will of course be held as superseded, and indictments for perjury in cases of the kind described will in future be drawn out after the following form:—"Charged with perjury in having, on the 25th April 1840, and on the 5th May 1840, given contradictory statements on affirmation before the magistrate and sessions judge of zillah ——— on a point material to the issue of the case."

No. 127.

To the several Criminal Authorities in the Lower Provinces.

Lower Provinces, 27th January, 1843.

THE Court, having been in communication with the Military Board, regarding the feeding and clothing of convicts placed under charge of executive officers, direct that it be considered as a general rule that such convicts are to be lodged and fed by the executive officers, but to be supplied with clothing by the magistrates in charge of the jails from which the convicts are detached.

No. 128.

To the several Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces, 3d February, 1843.

A RECENT circular, No. 225,† Lower Provinces 16th September,

* "To constitute the offence of perjury punishable by the Regulations, in the case of a witness giving different depositions before a magistrate and court of circuit, it is requisite that one of the two contradictory statements should be satisfactorily established."

† This circular was issued by the Sudder Dewanny Adawlut.

Western Provinces 17th October 1842, having noticed to the judicial authorities, that Act XXX. of 1841 is the only law under which contempt of court can now be punished, and "prevarication" not appearing to be correctly classable under the "obstructions to justice" rendered punishable by that enactment, it has accordingly been ruled by the Courts of Nizamut Adawlut at Calcutta and Allahabad, that construction No. 1177 must be held to be rescinded.

No. 129.

To the several Criminal Authorities of the Lower and Western Provinces.

Lower Provinces, 10th February, 1843.
Western Provinces, 4th April, 1843.

I AM directed by the Court, under instructions from Government, to forward to you the accompanying copy of a letter, No. 45, of the 10th ultimo, from the chemical examiner, with a view to your adopting the suggestions of that officer in all practicable cases of the nature alluded to.

Copy of a letter from the Chemical Examiner to the Deputy Secretary to Government in the General Department, No. 45, *dated 10th January,* 1843.

I have the honor to inform you, that in the execution of my duty of chemical examiner to Government, I have several times been put to much inconvenience by no report or detail of cases being forwarded with substances sent for examination and supposed to contain poisonous matters. When the quantity of material requiring to be analysed is small, and no intimation or clue to its nature afforded by the symptoms it may have produced, some portion is necessarily expended in determining the class of poisonous agents to which it may belong, before any particular experiment can be undertaken with a view to establish its individual nature and composition, and in one or two cases the residue has been so minute as to prevent my being able to give a positive opinion on the subject. In all cases, it is a matter of interest and importance in a professional point of view to have a detail of every case of poisoning to illustrate the chemical examination, and afford such other evidence as may form a useful guide in future and doubtful cases of the same nature.

2. I have the honor therefore to request that all judges and magistrates who may have cases requiring chemical examination, be directed to furnish every detail that can be obtained, both from

the civil surgeon and those persons who may depose to the facts of a case, for the information and guidance of the chemical examiner. By this means much valuable information may be obtained, which may ultimately lead to a knowledge of the poisonous vegetable substances employed by natives for criminal purposes, very few of which can at present be detected by chemical analysis.

No. 130.

To the Sessions Judges and Commissioners in the Lower Provinces.

Lower Provinces, 24th February, 1843

The practice adopted by many sessions judges of recommending male prisoners to be imprisoned for life, without specifying whether such imprisonment is to be undergone in transportation or in the Allipore jail, being attended with inconvenience, I am directed to request that in such cases you will invariably recommend that the prisoner be sentenced to transportation for life instead of imprisonment for life.

2. The object of this is to save the time of the Court, which is now frequently unnecessarily employed in deciding whether the imprisonment is to be undergone in transportation or in the Allipore jail. A single judge of the Court, agreeing with the sessions judge in any sentence short of death, is competent to issue sentence, but if the sessions judge recommend imprisonment for life, and the judge of the Nizamut Adáwlut be of opinion that the imprisonment should be undergone in transportation, the law requires that the case be sent on for another voice, transportation being considered an aggravation of punishment.* If, however, the sessions judge recommend transportation, the judge of the Nizamut Adawlut is always competent to mitigate to imprisonment for life.

3. The foregoing order of course is not intended to prevent your pointing out to the Nizamut Adawlut any circumstance which in your opinion may be considered as a ground of mitigation. In framing the recommendation of sentence as directed by the Court, you are always at liberty to state to the Court any circumstances which you deem may be taken into their consideration as a reason for commuting the transportation to imprisonment within seas.

* See Act XIV. of 1844.

No. 131.

To the several Criminal Authorities in the Lower Provinces.

Lower Provinces, 5th May, 1843

The Court circulate, for the information of the several criminal authorities, the following extract from a despatch from the Hon'ble the Court of Directors, to the Government of India, in the Legislative Department, under date the 14th December, 1842.

"We trust that care is taken to prevent this Act* from operating oppressively towards persons affected by it.

No. 132.

To the Civil and Sessions Judges in the Lower Provinces.

Lower Provinces, 7th April, 1843.
Western Provinces, 19*th May*, 1843.

There being reason to believe that specifications of additional documents are sometimes inserted in applications for copies of papers, after the presentation of the application and the passing of an order for granting copies of the papers originally applied for, the Court, with a view to prevent such a practice, direct that petitioners be in future required to mention in words the number of documents of which transcripts are required, and to insert the date of application immediately after the list of papers.

No. 133.

To the several Criminal Authorities in the Lower and Western Provinces.

Lower Provinces, 21*st April*, 1843.
Western Provinces, 26*th May*, 1843.

Pursuant to the orders of Government, the Court are pleased to direct that you will submit through them all references you may have to make for the opinion of the advocate general on points of English law.

* Act XXI. of 1841, for the better prevention of local nuisances not within the local limits of the Supreme Court.

No. 134.

To the Civil and Session Judges in the Lower Provinces and the Authorities in the Extra Regulation Provinces.

Lower Provinces, 27th April, 1843.

PURSUANT to instructions from the Government, the Court request that all communications, heretofore made to them on the following subjects, be, in future, addressed direct to the judicial secretary.

1. Application for leave of absence, whether on the part of the judges themselves, or on the part of principal sudder ameens and sudder ameens.

2. Appointment, promotion, and transfer of uncovenanted judges above the grade of moonsiff. Reports of vacancies in the offices of the principal sudder ameen, sudder ameens, and moonsiff of the 1st grade, to be made direct, so that the Government may receive without delay all information necessary to make the required appointments. With regard to moonsiffs; of the 1st grade, a report is also to be made to the Court, to enable them to make arrangements for filling up the vacant office.

3. Erection and repair of public works and buildings.

No. 135.

To the several Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces, 22d April, 1843.

THE Court, having had under consideration, in reference to Act XXXI. of 1841, that a magistrate's order in cases of trespass, or the like, may include the infliction of a fine of rupees 50, not appealable under Section 2 of that enactment, as well as an award of possession of the thing in dispute, which is appealable to the superior court; and desirous to correct the anomaly caused by one portion of an order being intangible and another portion of the same proceeding being capable of reversal by the appellate authority, direct that, in such cases, distinct and separate orders be passed—that in which the magistrate's decision is final being kept apart from any order appealable to the sessions court.

No. 136.

To the several Civil and Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces, 2d May, 1843.

WITH reference to the provisions of Act I. of 1843,* which enact that, henceforward, all registered documents shall take precedence of others not so attested, the Court conceive that a due regard to the security of the interests of Government requires that all security bonds executed by the sureties of treasurers, nazirs, and other ministerial officers, attached to the judicial courts, should be duly registered in conformity to the conditions of the enactment cited; and are accordingly pleased to direct that all such, and other documents likewise of a similar character, by the annulment or repudiation of which the interests of Government are liable to be injuriously affected, shall be subjected to registry; [that the civil and criminal authorities in the Lower Provinces shall satisfy themselves that the lands, to which the registered security deeds relate have not been already conveyed away by any previously registered deeds,] and that such registration [and scrutiny] shall be deemed an indispensable preliminary to their acceptance as good and valid engagements.† The fees atttendant on this process, must be defrayed by those, from whom security is demanded, and whose tenure of office is dependent on their compliance with such requisition.

2. As the validity of deeds, bonds, and documents of every description, executed previously to the passing of this enactment, is not affected by its provisions, the registration of such need not be insisted on. These instructions are intended to have prospective effect only.‡

No. 137.

To the Criminal Authorities in the Lower Provinces and the Extra Regulation Provinces.

Lower Provinces, 19th May, 1843.

PURSUANT to the wishes of the Government, the Court direct that the magisterial authorities, and particularly those of outstations, receive petitions of appeal against their sentences and

* See the modified provisions contained in Act XIX. 1843.
† The words within brackets are not contained in the Western Court's circular.
‡ See No. 189 of this Part.

orders for transmission to the session judge, if presented within the period of appeal; and that the session judges pass orders on such petition notwithstanding the appellant has not entered appearance by himself or through an accredited mookhtyar at the court.

2. The same rule shall be applicable to petitions of appeal from the sentences and orders of the session judges, presented to them for transmission to the Nizamut Adawlut.*

No. 138.

To the Magisterial Authorities in the Lower Provinces.

Lower Provinces, 16*th June*, 1843.

PURSUANT to the wishes of Government, for the abridgment of the proceedings of the magistrates and police officers in the investigation of criminal offences, which are recorded in the subjoined extracts, the Court, after communication with the superintendent of police, circulate the following rules and forms of roobakarees for the guidance of magistrates.

1st. In all cases investigated by the magistrates, no intermediate proceedings of length are to be admitted. In the event of its being necessary to require further investigation by the police, or the attendance of further evidence, it will be sufficient to pass an order to that effect in as many words, without entering into any detail of the facts of the case.

2d. In cases disposed of by the magistrate by conviction, a short record of the grounds of conviction and a clear statement of the charge are to be entered in the final roobakaree, together with a list of the witnesses examined; but it will not be necessary to preface the order with any lengthened details of the facts of the case (all of which may be gathered from the record,) or to make abstracts, as is sometimes done, of the reports and proceedings of the police officers in the magistrate's roobakaree of conviction.

3d. In cases of acquittal, it will be enough for the magistrate to record that, in his judgment, the charge has not been proved, and the prisoner consequently acquitted. In heinous cases, an addition may be made to the effect that, in the event of other evidence being produced against the person discharged, proper orders will be passed in the matter.

4th. In cases committed to the sessions, all that is necessary to be recorded is, the charge preferred, a list of the witnesses ex-

* See No. 172 of this Part.

amined, and the charge on which the prisoner is committed by the magistrate.

2. Forms of final roobakarees, to be used by the magisterial authorities, in cases of conviction, acquittal, and commitment, are subjoined.

3. The following rules, framed by the superintendent of police, are to be communicated by magistrates to the police officers for their observance.

1st. In all cases cognizable by the police, the depositions of the informant or plaintiff, or of both, are to be immediately taken at length; the police officers being careful, particularly to enquire from them what they saw themselves—what they learnt from others—who the persons were from whom they learnt it—the prosecutor's witnesses, and what evidence each witness is supposed to be capable of giving. In cases of dacoitee, highway robbery, theft, and burglary, the list of property lost must invariably accompany the plaintiff's deposition, and the above papers must be forwarded to the magistrate immediately on being received.

2d. The *sooruthals* required in Sections 14 and 15, Regulation XX. of 1817, or in cases of dacoitee, describing the appearances presented, and the facts brought to light in a primâ facie inquiry, to be sent to the magistrate, in place of a report, the moment they are drawn up.

3d. Confessions of prisoners to be taken at length. No persons employed about the thannahs, or chowkeedars, doosadhs or chummars, or of such other descriptions, to be made subscribing witnesses to the same by the police, under penalty of forfeiture of situation. These must always be respectable men of the place, and such, if possible, as can read and write; and they should be required to question the prisoner themselves, whether he has confessed voluntarily to the facts stated.

4th. The depositions of witnesses are not to be detailed in the papers sent to the magistrate, and the summary of it to be given in the simplest form.

For example, in a case of highway robbery with murder;—

Nuzzer Allee, Peer Bux, and Govindram deposed to having witnessed the deed;—

Doorga, Ewoz Jan, and Ruttun recognize the property;—

Sheolal and Gooroo Dass witnessed the search of prisoner's house;—

Sujut Allee and Gungadeen saw prisoner running off with a drawn sword in his hand;—

Janokia Dosadh chowkeedar arrested the prisoner and saw marks of blood on his clothes.

5th. At the bottom of this summary, the darogah is to enter the names of those witnesses whom he examined, but who

professed ignorance, or gave evidence so unimportant as not to require their being sent in.

6th. In sending in the prisoners, at the close of an inquiry, the darogah to enter his grounds for so doing (without any recapitulation of evidence) in the column for remarks of the chullan, No. 2, of Appendix to Regulation XX. of 1817.

7th. No precise rules can be laid down for the returns to purwannahs; but any police officers, unnecessarily taking up the time of the magistrate with long reports, will be entered in the minor register, and such conduct, if persisted in, will cause dismissal.

8th. The darogahs are informed that all excuses for delay in preparing and copying out voluminous reports being obviated by the above rules, any breach of the regulations in the detention of arrested persons, or any slowness in the enquiry, will be severely dealt with. They are also to report concisely, but clearly, all important occurrences which may take place within their jurisdiction, considering that an important part of their duty.

9th. In cases when the darogah may not think the case sufficiently proved to warrant the transmission of the accused parties to the magistrate, he is to send in the *substance* of the evidence of each witness, the statements of the plaintiff and defendants, the latter taken at length, and a clear statement (without recapitulating any evidence) of the grounds of his opinion for releasing the accused.

Extracts referred to in the 1st paragraph of the Circular.

Extract from the Report of the Superintendent of Police, Lower Provinces, for the Second Six Months of 1840, *dated* 16*th November*, 1841.

Para. 812. I am aware that I am not expected, by the Honorable the Court of Directors, to do more in these reports than exhibit the results of the system as it exists; and I trust that I shall not be considered as going beyond this rule, in pointing out the inutility of employing the police, in recording all their mofussil enquiries, in the voluminous manner required by Regulation XX. of 1817. This is really not the business of the police; and whilst it interferes much with the performance of their proper duties, it affords them every excuse for delay in sending in witnesses and offenders, and it places no check whatever on the compulsory extortion of confessions and evidence, or on the maltreatment of those from whom they may desire to procure declarations of any kind.

813. I believe the system of extorting evidence, &c., alluded to above, to be carried to a very great extent in many parts of the country; and it would be well to remove from the police all excuse for the delay which enables them to carry on this practice

with impunity, whilst the abolition of the practice of the police recording any thing beyond the charge, the names of the witnesses, what they depose to, and the confessions of any persons, in a very concise manner, would place the magistrates' courts on a much better footing as being the judicial tribunals in the first instance, and render them not so dependent, as they are now, on the proceedings of their police, conducted without any proper control, constantly denied by the persons whose statements have been written down, and always suspected by the superior courts. If the whole detailed proceedings in a case of a dacoitee were to be placed before the Right Honorable the Governor of Bengal, I am sure that he would be surprised at the extraordinary quantity of written evidence judicially taken and sent in by the police officers.

Extract from the Resolution of the Honorable the Deputy Governor of Bengal, dated 8th August, 1842, *on the Report of the Superintendent of Police, Lower Provinces, for the last six months of* 1840.

Para. 14. What Mr. Dampier here* recommends was strongly advised by the police committee in paragraphs 70 to 74 of their printed report, dated 18th August, 1838; and the Supreme Government, in the Resolution † passed upon the report, approved entirely of the committee's suggestions, apparently intending that they should be carried into effect. It would, however, appear that an alteration in the existing law would be a necessary preliminary. The subject being now again revived, the Deputy Governor will consult the Sudder Court thereon.

Extract from the Report of the Police Committee, dated the 18*th August*, 1838.

Para. 70. The first point is that the proceedings both of the magistrates and at the thannahs, require to be considerably abbreviated. In regard to the former, the records of a trial need contain only the examinations and the depositions of the parties, together with the final order of the magistrate, and the reasons for passing it. But according to practice, the record contains a great deal more. The final roobakaree, and often the intermediate proceedings, are swelled by a recapitulation of the depositions of all parties examined, although the original depositions immediately precede it. This at best is a needless waste of time and labor, while it affords the amlah an opportunity to distort and misstate the evidence, in order to magnify to the parties their own influence and importance. In the judgment of the committee, the final roobakaree or proceeding should contain merely the order or sentence in the case, and the reasoning on which it is founded. Those who are acquainted with the length, to which, by the present practice, a final roobakaree in the most trifling cases is extended, will know how

*Paras. 812 and 813. † Para. 27.

great a saving of ill-employed time and labor, and therefore how desirable an improvement, would be effected by the proposed abbreviation.

71. In regard to the thannah reports, it appears to us that they are susceptible of much simplification and improvement. The practice in this respect may be described as follows. On receiving intelligence of an occurrence, requiring local investigation, the darogah forthwith transmits to the magistrate a report of the information, containing generally an abstract or a copy (sometimes both) of the depositions of the prosecutor or informant, with notice of the reporter's intention to proceed himself, or to depute one of his subordinates, to the place of occurrence, for the purpose of local investigation. After the completion of the investigation, the darogah or other investigating officer forwards what is called a *sooruthal*, or statement, with or without prisoners, witnesses and prosecutors, as the case may be. This document is a voluminous compilation in the native language of all depositions taken on the spot, from such persons as the police officer chooses to examine—the examinations of accused parties,—an account of the police officer's own proceedings during the investigation,—and a summary of his opinion on the charge preferred, as to the guilt or innocence of the accused, whom, if deemed guilty, he forwards for trial, and if innocent, releases on bail or recognizance at his discretion. This bulky report is not unfrequently accompanied by the original depositions of the parties, besides the abstract. It is evident that no such long report was intended by the framers of Regulation XX. 1817, (vide Section 13, Clause 2,) but in the hands of an unskilled mohurrer it always becomes what is above described.

72. The *sooruthal*, even when faithful to facts, is of small use to the magistrate, by whom it is seldom looked into with much attention. The chief object of it is to point out to the officers, whose duty it is under the present system to take the depositions for subsequent production before the magistrate, the kind of information or evidence to be given by such of the persons, prisoners or witnesses, sent in by the police officers, and in accordance with it the fouzdarry mohurrers shape their examinations. But, in practice, the *sooruthal* is not unfrequently drawn up by the police officer to suit his own private views, and represents the case, not as it has occurred, but as he is desirous it should appear. The depositions and examinations are written studiously with a view to support the opinion which he desires should be adopted by the magistrate, and can never be relied on as a trustworthy representation of facts. It has occurred to one member of our committee to receive, at the same time, through an oversight, two *sooruthals* of the same occurrence written by one officer. In one, the opinion given was, that the parties were guilty; and the evidence was studiously shaped to favor the conviction. In the other, the witnesses were made to give evidence exactly the reverse of that con-

tained in the former, and the opinion recorded was, of course, in favor of the accused. These had been, as is supposed to be often the case, both prepared for transmission, with the intention of sending off the one or the other, according to the inducements held out by the parties concerned.

73. Though such signal detections can occur but rarely, yet every magistrate is well aware that little or no dependence is to be reposed on *sooruthals*, and they are treated accordingly: while therefore they are of little or no use in promoting the elucidations of truth, they furnish excuses for delay and waste of time in completing investigations which is turned to account in fabricating false evidence, tampering with prosecutors and witnesses, and in extorting money.

74. It appears to the committee that no inconvenience, and probably much good, would result from the discontinuance of these *sooruthals*, and the adoption of a system like that in use in the Calcutta police. The darogah, or other police officer, should make summary enquiry, without recording depositions, and at the conclusion should merely send in the prosecutors, all witnesses and prisoners, (if the case in his judgment require further investigation,) with a brief summary of the charge, and list of the persons sent in to the magistrate. If the case, in his opinion, be unsubstantiated, he should send in a similar list of the parties examined, stating shortly that on his view of the merits of the case, he has released the accused on bail, or on recognizance. In the latter case the prosecutor, if he deemed himself wronged, might of course apply to the magistrate for a trial of the charge. But the power of thus primarily releasing should in the judgment of the committee, be restricted to misdemeanors, and not extend to felonies and larcenies.

Extract from the Resolution of the Hon'ble the President in Council, dated 15th June, 1839.

Para. 27. The remaining recommendations of the committee, in regard to the abbreviation of the proceedings both before the magistrate and at the thannahs, and the treatment of suspected persons, should, the President in Council is of opinion, be approved. In regard to the latter especially, there can, he thinks, be no difference of opinion. The principle laid down in the 82d paragraph of the committee's report is one which cannot too forcibly be impressed on every public officer; for there is none, the observance of which is of greater importance, nor is there any other country in which the principle in question is so systematically disregarded.

(True Extracts,)

(Signed) F. J. Halliday,

Secy. to the Govt. of Bengal.

1. Form of Proceeding of Conviction.

Proceeding of the fouzdarry court of zillah ——————————— dated ——————————

Present ——————————————————— Magistrate.

A. B. Prosecutor.	*vrs.*	C. D. Defendant.

Charge.—Burglary in the house of the prosecutor and theft of property of the value of 50 rupees.

The prisoner having been arraigned on the above charge, and pleaded not guilty, the following witnesses were examined for the prosecution.

E. F. G. H.	Who were present when the prisoner was apprehended in the act of committing the offence.
I. J. K. L.	To the fact of the property, found on the prisoner, belonging to the prosecutor.
M. N. O. P.	o the prisoner's character.

The undermentioned witnesses were examined for the defence.

Q. R. S. T.	To prove an alibi set up by the prisoner.
U. V. W. X.	To the prisoner's character.

The charge having been proved by the evidence of the witnesses for the prosecution, who were present when the prisoner was apprehended in the act of committing the crime with which he is charged, and the discovery, on the person of the prisoner, of property belonging to the prosecutor,—the value of such property not exceeding 50 rupees;

It is hereby ordered that the prisoner be confined in the criminal jail of this district for a period of two years from this date, and be kept to hard labor in irons.

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2. Form of Proceeding of Acquittal.

Proceeding of the fouzdarry court of zillah ——————————— dated ——————————

Present ——————————————————— Magistrate.

A. B. Prosecutor.	*vrs.*	C. D. Defendant.

Charge.—Burglary in the house of the prosecutor and theft of property of the value of 50 rupees.

E. F. Witnesses examined.

Whereas the charge against the prisoner has not been proved by the evidence adduced on the part of the prosecutor,

It is hereby ordered that the prisoner be released.

3. Form of Proceeding of Commitment to Sessions Court.

Proceeding of the fouzdarry court of zillah ———————— ———————— dated ————————————————

Present———————————————— Magistrate.

A. B. Plaintiff.	*vrs.*	C. D. Defendant.

Charge.—Murder of————

The following witnesses were examined on the part of the prosecutor; viz.

E. F. } G. H. } Eye witnesses to the murder.

I. J. } K L. } Witnesses to the fact of a previous enmity between the prisoner and the deceased.

M. N. } O. P. } Witnesses to the confession of the prisoner before the darogah.

The following witnesses were examined for the defence.

Q. R. } S. T. } To an alibi pleaded by the prisoner.

With reference to the evidence for the prosecution, it is hereby ordered that the prisoner be committed to take his trial in the sessions court of the district, charged with the murder of——— ————————, that the prosecutor and witnesses be bound over to attend in the sessions court, and the prisoner be questioned as to any evidence he may wish to have summoned on his trial.

No. 139.

To the several Criminal Authorities in the Lower Provinces.

Lower Provinces, 23*d June*, 1843.

The Court circulate, for the information of the session judges and the guidance of the magistrates, and independent joint magistrates, the following extract from a resolution of the Hon'ble the Deputy Governor of Bengal, dated 5th instant, authorizing two cooked meals being daily given to prisoners under the ration system.

2. "With regard to the reports of medical officers on the rations served out to prisoners, it appears that there is no fault to find with the quality of the articles supplied. but the quantity* varies in a considerable degree, and must be considered insufficient in many districts. It is strongly urged by the Medical Board, and, as His Honor thinks, with propriety, that two cooked meals a day should be allowed to all prisoners under the ration system. This will be forthwith introduced into the different jails in the Lower Provinces."

* His Honor observes that in several districts less than the full standard prescribed is allowed to the prisoners. This should be immediately amended.

No. 141.

To the Criminal Authorities in the Lower Provinces.

Lower Provinces, 7th July, 1843.

With advertence to a case which has recently come under their consideration, the Court request the magisterial authorities to conform strictly to the rules laid down in Regulation IX. 1807, regarding the issue of warrants, and to be careful that none are issued for the apprehension of persons not expressly named therein. The sessions courts are at the same time requested to notice any instances in which the rule may be inadvertently violated.

No. 142.

To the several Criminal Authorities in the Lower and Western Provinces.

Lower Provinces, 25th August, 1843.
Western Provinces, 30th August, 1843.

To remove doubts which may exist, the Court are pleased to direct, that when a wounded individual is sent by the magistrate for examination as to the nature and extent of his or her wounds, it shall rest with the surgeon to decide whether such person shall be placed in the hospital for treatment, or not; and that the surgeon's order on the point shall be conclusive.

No. 143.

To the Magisterial Authorities in the Lower Provinces.

Lower Provinces, 1st September, 1843.

With reference to the circular order, No. 139 of the 23d June last, the Court direct that the rations given to *laboring* prisoners be increased to one seer and a half; and that such increased allowance of food be distributed to them in two equal or unequal portions, one portion for the morning and the other for the evening meal. This will render it necessary to discontinue the issue of choora (parched rice) for tiffin at noon. In regard to the articles which constitute the rations, and other matters therewith connected, the rules of the circular order No. 89, of the 9th July 1841, are to be observed.*

* See No. 145 of this Part.

2. In acting upon these orders, the authorities will be guided by the subjoined remarks of the Medical Board, communicated to the Court by their officiating secretary under date the 29th ultimo.

"As far as the Medical Board has been able to ascertain, the standard of quantity has been, for some time past, that noticed in Mr. Littledale's letter, namely, one seer of eighty sicca weight of ottah or rice, with a due proportion of the necessary condiments. In this seer of eighty sicca weight, was included the midday tiffin of parched grain, against the allowance of which, it is within the Board's knowledge, many and various remonstrances have been made from time to time as tending to invite the accession of the very ailments which have caused the greatest mortality among the prisoners, and to obviate the necessity for which was not the least weighty of the Board's reasons for recommending the second meal of cooked and wholesome food. It seems to the Board that from 40 to 50 sicca weight added to the old standard of 80 sicca weight would bear division into two parts, equal or unequal according to the taste of the prisoner, and that one part or meal may be given in the morning so as to admit of the prisoners, under ordinary circumstances, arriving at the scene of their labours before seven o'clock in summer, and eight o'clock in winter. The other meal may be eaten as usual on the return of the prisoners from labour in the evening. The indigestible noon-day meal will of course be discontinued, and the space of time heretofore allowed for its consumption may or may not be denied, as the feelings of the Court of Nizamut Adawlut may prompt them to direct. The Board of course understand that, with the increase of ottah or rice, there will be a due increase also of salt, pepper, vegetables, &c.

"It is possible, as hinted at in the letter of Mr. Samuells, that the convicts, especially Hindoos, being unaccustomed to a full cooked meal at so early an hour, may not at first be able to consume the whole of the morning allowance. In this case, the convict may take the surplus with him to the labouring ground, and be allowed a short time in the afternoon to eat the remnant, for, though cold, being cooked and seasoned it need not be unpalatable or unwholesome."

No. 144.

To the several Magistrates and Joint Magistrates in the Lower and Western Provinces.

Lower and Western Provinces, 16*th August*, 1843.

The Courts of Nizamut Adawlut for the Lower and North Western Provinces, have had before them the returns to their circulars, dated for the Lower Provinces, 18th June, 1841, and for the Wes-

tern Provinces, 23d July, 1841. The magistrates in the Lower and North Western Provinces having in general signified their unqualified approval of the forms of registers as circulated, and having in some instances already introduced them, and the emendations which have been suggested by some functionaries being mostly of a trifling and unimportant nature, the Presidency and Western Courts direct that the registers be brought into use throughout all the districts within their respective jurisdictions.

2. The remarks which were circulated with the forms of registers, are here repeated for the information and guidance of magistrates.

3. The objects sought for, are facility of reference to the records of cases, and ready information (as far as facts and circumstances may have been ascertained) in regard to persons charged with offences, who have eluded the pursuit of justice.

4. For these purposes, two general register books and six books of subordinate entry, should be kept up in every magistrate's office.

1st. A general register of all applications preferred direct to the magistrate.

2d. A general register of all reports received from the police darogahs.

The subordinate books are:

1st. A book of heinous offences.

2d. A book of petty offences.

3d. A book of appeals preferred from subordinate courts.

4th. A book of references or proceedings received from other districts.

5th. A book of cases preferred under Act IV. of 1840.

6th. A book containing all miscellaneous matters.

5. All criminal cases should be entered in the first instance in either of the general registry books, and then transferred to one of the subordinate ones for trial and disposal, excepting of course the cases referred to the subordinate tribunals. When cases are finally decided, they should be sent to the record-keeper, who should keep a general register, in which he should enter all cases thus received, giving the number of the case and nature of it, the names

of the parties, the crime, the thannah, the month and year of the occurrence, and an abstract of the final order, with a column in which he should note in what part of the office he has placed the papers. As long as this plan is followed no difficulty can occur in tracing out a case. If, for instance, a magistrate wishes to know what has become of a petition presented by A, on the 1st March, 1840, he refers first of all to the general register of applications, and he there finds it was either tried by himself as a petty offence and entered in his book of petty offences decided on such a day, and sent to the record office, or else he will find that it was referred to the principal sudder ameen and disposed of by that officer. In like manner heinous offences will be traced from the general report book to the heinous offence book, and from thence to the record office or a subordinate court.

6. As regards Furarees, or persons who have eluded the pursuit of justice, the forms prescribed by Regulation III. 1812, if properly kept up, contain almost all the information that is requisite, the addition of a single column (which the magistrates are required to effect) will make them quite complete. The additional column should state the number of the case, the year in which it was preferred, and in what part of the record office the record is to be found.

7. These several forms, viz. two general registry books, six books of pending business, one of business disposed of, and the registers prescribed by Regulation III. 1812, amended as above directed, if properly kept up, would give every information. They are simple and easy of comprehension, and involve no additional trouble and expense.

A.

General Register of all Applications preferred direct to the Magistrate of Zillah———, commencing on the 1*st January* 184— *and ending* 31*st December* 184—.

No. of this Register.	Name of the Applicant.	Date.	Substance of Charge.	Order.
1..........	Ram Doss, ..	1st January,	Assault, ...	Referred to the Sudder Ameen.
2..........	Sheik Coochil,	Ditto, ...	Wounding with a Sword,	Deposition taken, and sent to Heinous Offence Book-keeper.
3..........	Imam Deen,..	2d January,..	Stopping up a Road, ...	Referred to Darogah for Report and sent to Miscellaneous Case Book-keeper.
4..........	Ramdhun, ...	Ditto, ...	Assault, ...	Referred to Principal Sudder Ameen.

B.

General Register of all Reports received from the Police Darogahs of Zillah————, commencing the 1st January 184—, and ending————.

No. of this Register.	Name of Thannah.	Date of Receipt.	Substance of Report.	Order.
1......	Kutwah,....	1st January,	Reporting a case of Murder in Village of Dhuguram,....	Sent to "Heinous Offence" Book-keeper. Darogah ordered to submit result of enquiries without delay.
2....	Baupore,....	Ditto,........	Reporting all well.	Filed in the Office.
3......	Bilsah,......	Ditto.........	Sending a case of Cattle Stealing,..	Referred to Joint Magistrate.
4......	Hooghly....	Ditto,........	Reporting a Burglary in the House of Ramdhun, ...	Ordered to enquire into the case. Report sent to Heinous Offence Book-keeper.

C.

Record Keeper's Register.

1. No. of Cases.	2. Nature of Case, that is Heinous, Petty, or under what head.	3. Names of Parties.	4. Crime or Offncee charged.	5. Thannah.	6. Month and Year.	7. Final Order.	8. Record Keeper's Remarks.
							Placed in Rack No. 1. Bustah No. 4.

No. 1. *Book of Heinous Offences prescribed by Circular Order*, 12*th April*, 1811.

No. of this Register.	Name of Prosecutor.	Name of Party accused.	Abstract of Charge.	Date of filing.	Parties on Bail or in Jail.	Abstract of Orders passed.	Final Order.
1........	Shaik Coochil,	Kyamooddeen, Mynooddeen,	Wounding with a Sword,	1st Jan.	....	Warrant issued.	
2........	Rammohun,...	....	Murder of Coochil,	1st Jan.	....	Directing Enquiry.	
3........	Ramdhun,...	....	Burglary.	1st Jan.	....	Do. to Report.	

No. 2. *Petty Offence Book prescribed by Circular Order,* 12*th April,* 1811.

No. of Register.	Name of Prosecutor.	Names of Parties accused.	Substance of Charge.	Date.	Abstract of Orders passed.	Final Order.
1........	Ulee Buksh, ...	Hurmohun Dwarkanath,	Assault, ...	2d January,	Summons.	
2........	Shishim,........	Ramsuhaee Toolsee, ..	Assault, ...	3d January,	Summons.	

No. 3. *Book of Appeals.*

No.	Name of Appellant.	Date of filing Appeal.	From whose Orders Appeal preferred.	Abstract of Orders passed.	Final Order.

No. 4. *Book of Reference from other Districts.*

No.	Name of District.	Date of Receipt of Reference.	Substance of Reference.	Substance of Orders passed.	Final Order.

No. 5. Book of Cases preferred under Act IV. of 1840.

No.	Name of Prosecutor.	Name of Defendant.	Date of filing Petition or of Report.	Substance of Charge.	Substance of Orders.	Final Order.

No. 6. Miscellaneous Matters.

No.	Names of Parties.	Date of filing.	Substance of Matter.	Substance of Order.	Final Order.

Register of Persons charged with, or suspected of the Commission of specific Crimes of a Heinous Nature, who may have eluded the pursuit of Justice.

Name and Caste of the person accused or suspected.	Name of the Father.	Supposed Age.	Description of his Person.	Supposed usual place of Residence.	Amount of Reward offered for his apprehension.	Date of apprehension, surrender or ascertained death.	No. of Case, the year in which it was preferred, and in what part of Record Office to be found.

No. 145.

To the several Criminal Authorities and Civil Surgeons in the Lower Provinces.

Lower Provinces, 6th October, 1843.

I AM directed by the Court to transmit to you, for your information and guidance, an extract from the orders of the Government, under date the 18th ultimo, with the suggestions of the Medical Board and diet table alluded to, and to request that the report called for by the Hon'ble the Deputy Governor may be submitted to them immediately on the close of the year 1844, with the half-yearly statements connected with jails, which will then become due.

Extract from the Orders of the Government, No. 1482, *dated 18th September*, 1843.

Para. 3.—Some of the recommendations have been anticipated by the recent order regarding rations,*—such of them, however, as those orders do not meet, should be observed, and the authorities directed to report on them and their results, through the Court and Medical Board, respectively, at the close of a fit period.

4. The diet table which accompanies the Board's report, seems to have been most carefully and judiciously prepared. His Honor particularly desires that the rations therein exhibited, may be *strictly* adhered to in all the jails of this presidency, as regards *quantity*, and, as far as possible, as regards variety of food, and the proportion of the two daily meals.

Extract from a Report of the Medical Board to the Government, No. 11, *dated 7th September*, 1843.

In conclusion, we beg leave to enumerate the measures which we consider essentially necessary for the preservation of the health of convicts, and to append a table of daily diet, both for laboring and non-laboring prisoners, which we strongly recommend for adoption in every jail.

* See ante No. 143.

Diet Table exhibiting the quantity and variety of Food which are necessary in the opinion of the Medical Board for the preservation of the health of Laboring and Non-laboring Convicts in Jail.

NON-LABORING CONVICTS.

	Morning Meal.							Evening Meal.								
	Rice.	Dall.	Vegetables.	Ghee.	Salt.	Mussalah per diem.	Total of each.	Rice.	Dall.	Vegetables.	Fish or Flesh.	Ghee.	Salt.	Mussalah per diem.	Total of each.	Grand total daily food.
	ctks	chtks.	ctk	chtks.	ctks	chtks.	chtks	chtks.	ctks	chtks.	chtks.	ctks.	chtks.	chtks	chtks.	chtks.
Same Daily*	5	1	0	¼	¼	¼	6¾	6	2	1	0	¼	¼	¼	9¾	16½.

WORKING CONVICTS.

	Morning Meal.							Evening Meal.								
	Rice.	Dall.	Vegetables.	Ghee.	Salt.	Mussalah per diem.	Total of each.	Rice.	Dall.	Vegetables.	Flesh or Fish	Ghee.	Salt.	Mussalah per diem.	Total of each.	Grand total daily food.
	ctks.	chtks	ctks.	chtks.	ctks.	chtks.	chtks.	chtks.	ctks.	chtks.	chtks.	ctks.	chtks.	chtks.	chtks.	chtks.
Monday†	5	2	0	¼	¼	¼	7¾	8	0	2	4	¼	¼	¼	14¾	22½
Tuesday,	5	2	0	¼	¼	¼	7¾	9	3	2	0	¼	¼	¼	14¾	22½.

* Every day the above quantity the same.

† The above change on alternate days of the week, except on Sundays, when the laboring convicts will receive the same as the non-laboring convicts. Up-country prisoners should be allowed wheat flour instead of rice.

A small quantity of tobacco should be allowed, and one and half seer of fire wood, should the cooks require it.

Diet.—One cooked meal before and another after labor, during the day, and, in quantity and variety, agreeably to the annexed table.

The quality of the food to be under unremitted supervision.

Its preservation by the convict cooks to be well attended to, and care taken that each individual receives his due share.

Water, if not at hand and procurable of good quality from wells, tanks, or river, should be brought by convicts, in gurrahs or earthen vessels, from the nearest spot where good water is procurable, to enable the working prisoners to quench their thirst with wholesome drink during the day.

Prisoners to be permitted to take with them the whole or any remaining portion of the morning's cooked meal, and eat it whenever inclined during the period of labor.

Raw or parched grain to be prohibited.

Labor.—To be exacted with due discrimination in regard to the seasons of the year and to the strength of the convicts.

To be moderated or entirely remitted during an unusual degree of sickness; and when endemic cholera breaks out, the whole or a portion of the convicts to be removed to a healthy spot in the district.

One hour's rest from labor to be allowed in the middle of the day.

On the first symptom of illness of the convict, during working hours, he should be sent immediately to the hospital.

A convalescent period to be allowed, at the discretion of the medical officer, to all convicts discharged from hospital.

Some lighter labor than working on the roads should be devised for prisoners 60 years of age and upwards.

Frequent inspection of the prisoners by the medical officer previous to their leaving jail, with a view of detecting prisoners laboring under illness, and to point out those incapable of much bodily exertion.

Clothing.—The rules in force, to be strictly observed, and the size and quality of the blankets to be attended to.

Jail Buildings.—The jail should be erected on a high and dry site, the floor to be well raised from the ground, with flues underneath, to keep the wards dry; and the walls of the wards should be lofty.

Ventilation is a point of such vital importance, that every measure which can be adopted, should be carried into effect; for, in proportion to the purity and airiness of the wards will be the health of the convicts. Ventilation therefore should be promoted by having ventilators in the upper part of the wall, and spacious iron barred openings on the ground-floors, with an unconfined area on the outside.

Whenever or wherever prisoners are without the full benefit of well ventilated wards, the internal atmosphere soon becomes unfit for respiration; and through want of rest during the night, the prisoners cannot have their strength recruited. Walls of the wards should be thoroughly white-washed twice a year, and to the height of six feet from the floor, every quarter.

Privies.—The purity of the wards depends on their situation and construction; they should be exterior to the walls of the wards, and a corridor or passage should lead from the ward to the privy, with a wooden door at the entrance, and in the side walls of the privy should be open spaces, secured with strong iron bars.

A quantity of lime should be daily allowed for their purification.

No. 146.

To the Magistrates and Joint Magistrates in the Lower Provinces.

Lower Provinces, 27*th October*, 1843.

It appearing that many magistrates, under a misconception of the object of the Circular Order No. 110, of 24th June, 1842, have referred all cases involving chemical examination to the chemical examiner to Government, instead of availing themselves of the aid of medical officers of their stations, I am desired by the Court to request, that such references be in future limited to cases of urgent necessity, in which the local medical officer cannot afford the required information, and to doubtful cases of poisoning, &c., regarding which there may be need of information for directing the researches of the police.

2. The magistrates are also requested not to call upon the chemical examiner to make affidavits before the chief magistrate of Calcutta, regarding any matter referred for examination, as such affidavits are not legal evidence.

No. 147.

To the Session Judges in the Lower Provinces and the Commissioners in the Extra Regulation Provinces.

Lower Provinces, 24*th November*, 1843.

The Court desire that in future a note be entered in the margins of the letters which accompany trials referred to the Nizamut

Adawlut, and those called for by them, stating distinctly whether the defendants are in jail, or at large on bail, and, in the latter case, from what date.

No. 150.

To the Civil and Session Judges in the Lower and Western Provinces.

Lower Provinces, 17*th November*, 1843.
Western Provinces, 30*th December*, 1843.

The subjoined Circular of the Supreme Government is circulated for general observance.

To——————

Sir,

The Governor General in Council directs that hereafter all servants of the Government, who may have occasion to refer in their letters to any numbered paragraphs of letters received, will in the margin state briefly the substance of the several paragraphs to which they so refer.

2. Every letter should, as far as possible, be made intelligible in itself, without reference to any other document for the elucidation of its meaning, and great inconvenience to the public service, besides that of delay, may occasionally arise from the letter containing the paragraphs referred to, not being within the reach of the person to whom the letter making such reference is addressed.

No. 151.

To the Magisterial Authorities in the Lower and Western Provinces.

Lower Provinces, 24*th November*, 1843.
Western Provinces, 27*th January*, 1844.

The Courts of Nizamut Adawlut, for the Lower and North Western Provinces, having had under their consideration the means best adapted as checks against the misappropriation of "unclaimed property" and the "property of intestates" coming under the control of the Foujdarry courts, are pleased to prescribe the adoption of the forms annexed in all future cases of the kind.*

* See No. 3 of this Part.

FORM No. 1.

ZILLAH—————————FOUJDARRY ADAWLUT.

Register of Unclaimed Property disposable under Clause 16, *Section* 16, *Regulation XX. of* 1817.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
Names of Thannahs.	Description of Unclaimed Property.	Date of arrival at the Thannah.	Date of sale (if sold) in the Mofussil.	Date of arrival at the Sudder Station.	Date of sale at the Sudder Station.	Price realized by the sale of the Property.	Signature of the Nazir.	Date on which the price realized was paid into Treasury	Receipt and signature of the Treasurer.	Signature of the Magistrate or other Officer.	Remarks.
											If the property has been made over to any claimant who has appeared, it is to be stated in the column of Remarks.
								Total Amount.........................0 0 0			
								Realized during the Month........0 0 0			

FORM No. 2.

ZILLAH———————FOUJDARRY ADAWLUT.

Register of Lawaris Property disposable under Section 7, Regulation V. of 1799.

1.	2.	3.	4.	5.	7.	8.	9.
Name of Thannas.	Names of Individuals deceased.	Description of Property.	Date of arrival at the Thannah.	Date of Arrival at the Sudder Station.	Signature of the Nazir.	Date of Receipt given by the civil authority.	Remarks.

No. 152.

To the Magisterial Authorities in the Lower and Western Provinces and Extra Regulation Provinces.

Lower Provinces, 24*th November*, 1843.
Western Provinces, 27*th January*, 1844.

THE Court are pleased to direct that magistrates, in sending bodies to the civil surgeons, for examination, furnish them with all available information regarding the alleged cause of death.

No. 153.

To the Sessions Judges in the North Western Provinces and in the Saugor and Nerbudda Territory, and the Commissioner of Kumaon.

Western Provinces, 16*th December*, 1843.

THE Circular Order of the Nizamut Adawlut dated [W. P.] 6th May, 1839, (No. 22 of this Part,) which requires sessions judges, in referring trials for final orders of the Court, to specify the punishment, which, in their opinion, would be adequate to the crime established against the prisoners, having given rise to much practical inconvenience, is hereby cancelled.

2. Sessions judges, in submitting for the orders of the Court their proceedings on trials, which they may be incompetent to dispose of finally, are requested, henceforward, to confine themselves to recording their opinion of the guilt or innocence of the prisoner and of their relative degrees of guilt, should there be more than one prisoner, leaving the measure of punishment to be awarded, to be determined by the Nizamut Adawlut.*

No. 154.

To the several Civil and Criminal Authorities in the Lower Provinces.

Lower Provinces, 19*th January*, 1844.

AN instance having come to the knowledge of the Government of native ministerial officers being entertained on lower salaries than those fixed by the Government for the situations they held,

* See No. 182 of this Part.

and the difference carried to the public credit, the Court, in pursuance of instructions received by them, intimate to the different officers under their control that the honorable the Deputy Governor considers this practice to be extremely objectionable, and desires that it may not, under any circumstances, be repeated.

No. 155.

To the Officers in Charge of Jails in the North Western Provinces.

Western Provinces, 27*th January,* 1844.

THE Court of Nizamut Adawlut promulgate, for the information and guidance of all officers in charge of jails, in the North Western Provinces, copies of the correspondence, particularized in the margin,* which has recently passed with Government, on the subject of imposing the restraint of fetters on native soldiers and camp followers, who may be made over to the civil authorities to undergo sentences of imprisonment, adjudged against them by courts martial.

From the Officiating Register of the Western Court to the Secretary to Government, North Western Provinces, No. 1256, *dated* 14*th September,* 1843.

References have been occasionally made by magistrates, to whose charge native soldiers and camp followers, sentenced by courts martial to imprisonment "with labor," have been committed requesting the instructions of the Court in regard to their competency under the terms of the sentence to impose the additional restraint of fetters; and the instructions issued by the Court, on these applications, have been hitherto wont to be regulated by the particular circumstances of each case, and the representations of the magistrate in respect of it. Ordinarily, the imposition of "irons" forms a part of the sentence passed by the criminal authorities on persons, whose offences have rendered them liable to imprisonment "with labor," and it appears to the Court advisable, that some uniform principle should guide courts martial in recording their sentences, and that some corresponding rule

* Officiating Register to Secretary to Government N. W. P., No. 1256, dated 14th September 1843. From Secretary to Government N. W. P. No. 302, dated 23d instant, with annexures.

of practice, with a view to the enforcement of that principle, should be promulgated for general observance by the military authorities.

2. In order to effectuate this object, it will only be necessary, the Court presume, that the pleasure of Government should be communicated to the Military Department, accompanied by a request, that if no objection, legal or other, exist, orders should be issued, fitted to secure the specification of "labor in irons" or the reverse, in every sentence of imprisonment passed by a court martial, whenever it may be intended that the prisoner shall undergo his punishment in any of the provincial jails under the control of this Court.

3. A discretion is of course vested in all magistrates to subject any prisoner, guilty of riotous conduct, or of an infringement of the rules prescribed for the management of jails, to the restraint of fetters, whatever his sentence, and by what court soever awarded, whenever such a step may appear indispensable to the maintenance of discipline and order, or the safe custody of the prisoner; but the object of the present address is to procure the promulgation of a rule which shall impose upon courts martial the duty of so framing their penal awards, as that no doubt of their intention regarding the imposition of irons shall remain, and which shall relieve the magistrates and other authorities in charge of jails from the responsibility, on the one hand, of inflicting upon prisoners committed to their custody, a degradation, which may not form part of the recorded sentence, and from their not unnatural repugnance, on the other, to afford to such convicts a facility of effecting their escape, by sending them to labor on the roads without the ordinary restraint of fetters.

From the Secretary to Government, North Western Provinces to the Officiating Register of the Western Court, No. 302, *dated the* 23*d January*, 1844.

In reply to your letter, No. 1256 of 1843, dated 14th September, I am directed by the honorable the Lieutenant Governor to forward, for the information of the Court, the accompanying copy of a despatch from the officiating secretary to the Government of India, Military Department, dated 15th ultimo, deeming it unnecessary that any legislative enactment should be passed for ensuring the distinct expression of the intentions of courts martial in passing sentences on prisoners who have to undergo their punishment in any of the provincial jails under the control of the Sudder Court in these provinces.

From the Officiating Secretary to the Government of India in the Military Department to the Secretary to Government, North Western Provinces, No. 572, dated the 15th December, 1843.

Your despatch, No. 4775, of the 20th October last, relative to the distinct expression of the intention of military courts martial, in passing sentences on prisoners who have to undergo their punishment in any of the provincial jails under the control of the Allahabad Court, having been referred to his excellency the Commander in Chief, I am directed, in annexing for the information of the honorable the Lieutenant Governor, copy of a letter No. 273, of the 4th instant, from the Adjutant General of the Army, to my address, which has been received in reply, to observe, that the honorable the President in Council deems it unnecessary that any legislative enactment should be passed on the subject, it appearing that the imposition of fetters on convicts is left to magistrates, who exercise their own discretion in ordering their use, under the circumstances referred to.

From the Adjutant General of the Army to the Officiating Secretary to the Government of India in the Military Department, No. 273, dated the 4th December, 1843.

I am directed by the Commander-in-Chief to acknowledge the receipt of your letter, No. 52, of the 3d ultimo, with enclosures, relative to the expediency, or otherwise, of courts martial distinctly expressing in their sentences whether prisoners adjudged to suffer imprisonment with labor, are or are not, to be subjected to the restraint of fetters, and to convey to you his excellency's opinion on the point in question.

Sentences of imprisonment with labor, passed by native courts martial, are passed either in conformity with the regulations of Government, on trials for criminal offences, or under Act No. XXIII. of 1839, on trials for military offences. In criminal cases, the sentence directs the imposition of fetters, whenever the regulations authorise its being done, and not otherwise; and, thus, the same law which guides the courts of session, or the Nizamut Adawlut, guides courts martial also.

In military cases, courts martial are empowered by the Act No. XXIII. of 1839, to award "imprisonment with or without hard labor," but as no authority is therein given, to direct that the prisoner be subjected to labor "in irons," or "on the roads," a court martial cannot legally, the Commander-in-Chief thinks, introduce the words into their sentence. By the authority conveyed in a circular from the Court of Nizamut Adawlut in

Calcutta, No. 122, of the 11th March, 1813, the imposition of fetters on convicts would, his excellency remarks, seem to be left to the discretion of the magistrate.

If it be deemed advisable to confer on courts martial the discretionary power of awarding imprisonment, with or without hard labor in irons, or otherwise, such power must, his excellency conceives, be specially conferred by an Act of Government.

No. 156.

To the Session Judges and Magistrates in the Lower Provinces.

Lower Provinces, 9th February, 1844.

THE Courts of Nizamut Adawlut for the Lower and Western Provinces have ruled that every order of an assistant to a magistrate not vested with special powers, of a principal sudder ameen, sudder ameen, or law officer, passed in a criminal trial, or proceeding, awarding a higher punishment than that prescribed by section 8, Regulation IX. 1793, is appealable to the session judge.

The circular order dated Lower Provinces 7th and Western Provinces 28th January 1842, (No. 100 of this Part,) is to be corrected accordingly.

No. 157.

To the Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces, 20th February, 1844.

IT has been ruled by the Courts of Nizamut Adawlut, for the Lower and Western Provinces, that all orders passed by magistrates for the removal of obstructions and nuisances on thoroughfares, or for other conservancy purposes, under the provisions of Act XXI. of 1841, are appealable to the session judges only,—who are accordingly required to take cognizance of all such matters, when brought before them.

No. 158.

To the Civil and Criminal Authorities in the Lower and Western Provinces.

Lower Provinces, 1st March, 1844.
Western Provinces, 12th April, 1844.

To secure uniformity of practice regarding the mode of calculating the period within which an appeal should be lodged or any

official act done, the Court desire it to be understood, that when the period consists of days or weeks, the full number of days or weeks mentioned in the order should be allowed, exclusive of the day on which the order is passed; and that when a month or a year is mentioned, the month or the year should be reckoned according to the English calendar, that is to say, the month should not be invariably reckoned at thirty days, and the year should comprise twelve English calendar months.

No. 159.

To the Criminal Authorities in the North Western Provinces.

Western Provinces, 2d March, 1844.

The Court, after consultation with the Nizamut Adawlut in Calcutta, have ruled, in supersession of paragraph 1, Circular Order, Nizamut Adawlut, dated (Western Provinces,) 28th January, (1842, No. 100 of this Part) that every order of an assistant to a magistrate not vested with special powers, of a principal sudder ameen, sudder ameen, or law officer, passed in a criminal trial or proceeding, adjudging a penalty of fine and imprisonment, agreeably to the provisions of Section 20, Regulation IX. of 1807, and Section 3, Clause 3, Regulation III. of 1821, which penalty exceeds the limitations enacted in Section 8, Regulation VI. of 1803, is appealable to the sessions judge.

2. In like manner, whenever in cases of petty theft, the extended powers conferred by Section 20, Regulation IX. of 1807, and Clause 3, Section 3, Regulation III. of 1821, upon assistants to magistrates not vested with special powers, principal sudder ameens, and law officers, may be called into exercise by those functionaries, respectively, the orders of each and all, in such cases, have been held to be appealable to the sessions judge.

No. 160.

To the several Civil and Criminal Authorities in the Lower Provinces.

Lower Provinces, 19th April, 1844.

The Court request that, whenever applications are made to you for copies of any letters from, or resolutions passed by them, you will refer the applicants to the Court, instead of granting the copies asked for.

2. This rule is not to be considered to apply to the sentences of the Nizamut Adawlut in criminal trials.

No. 161.

To the Officers in charge of Jails in the North Western Provinces, including Saugor and Kumaon.

Western Provinces, 19*th April*, 1844.

WITH reference to the circular orders of the Nizamut Adawlut, No. 669, dated 16th May, and published in the Government Gazette of the 6th June last, the Court publish, for the information and guidance of all officers in charge of jails, in the North Western Provinces, extract (paragraphs 2, 3, and 10,) from the orders of Government, dated 23d ultimo, pointing out the measures which should be adopted, in all practicable cases, for providing means of daily ablution to the prisoners in their custody.

Extract (paragraphs 2, 3, and 10,) from the orders of Government, dated 23d March, 1844, No. 1085.

Para. 2. As regards the general question, it appears that there is no plan so advantageous as that of a good sized tank in the immediate neighbourhood of the jail, but outside the walls. The practice of bathing within the walls, in the well from which water is drawn for drinking, is open to objection, on two accounts; part of the water runs back into the well, thus impairing its quality for drinking purposes, while the remainder is apt, unless a very good system of drains is established, to render that part of the interior of the jail wet and dirty.

Para. 3. It is thought that in most places a tank 120 feet square and 10 feet deep, would be large enough for the purpose, and would retain water throughout the year; such a tank would be dug by 100 prisoners in from two to three months, without further expence to Government. In most jails there are convicts for life whom it is not advisable to employ at a distance from their place of confinement, and whose labor might well be made available for such a work.

Para. 10. In conclusion, I an desired to observe that wherever difficulties still remain for procuring the means of ablution for the prisoners in the vicinity of the jail, it is almost always practicable to allow them these means during the interval of labor, which it is understood that they generally enjoy in the middle of the day.

No. 162

To the Magistrates in the North Western Provinces,

Western Provinces, 23*d April*, 1844.

THE Court call the attention of magistrates in the North Western Provinces, to a Circular Order addressed, under this date, to the civil judges, regarding the practice to be in future pursued by moonsiffs and others, in transmitting records of monthly decisions to the sudder station, and request, that the police darogahs subject to their control, may be furnished with the requisite instructions for giving effect to the directions therein contained.

Circular to the Civil Judges in the North Western Provinces, Dated 23*d April*, 1844.

The Court, having had under consideration, returns to their Circular Order, No. 492, dated 10th March 1843, and published in the Agra Government Gazette of 28th idem, calling for information regarding the practice, observed by the several subordinate courts, in transmitting the records of monthly decisions to the sudder station, are pleased, with the sanction of Government, to issue the following instructions for general observance.

2. By Clause 8, Section 10, Regulation XX. of 1817, police darogahs are required to forward by the thanna dawk or by their burkundauzes, "as occasions may offer," papers sent to them by the subordinate civil judges for that purpose; on the other hand, the transmission of the records of monthly decisions is directed to be periodically made, and cannot, if the rules prescribed by Circular Order, Sudder Dewanny Adawlut, No. 49, dated 20th September 1839, are to be enforced, be allowed to depend on the occasional opportunity which a police darogah may think fit, either to improve, or, on the other hand, to leave unheeded; independently of this, the Court observe the increased bulk of the records of the subordinate tribunals, arising from the enlargement of their powers, and the consequent accession of judicial business before them, opposes a serious obstacle to the employment of the thanna dawk, as a means of conveying them to the sudder station.

3. The Court, however, adverting to the occurrence which gave occasion for the Circular Order of this Court, dated 10th March 1843, are not disposed to dispense with the attendance of a police burkundauze, which is authorised by law and affords some security for the safe arrival of papers in transit; and they are

pleased accordingly, with the permission of Government, to direct that the subordinate judicial officers forward the records of monthly decisions by a specified date, to the nearest thanna, for transmission to the sudder station, taking a receipt from the darogah, or, in his absence, from the head officer present at the thanna. It shall be the duty of the police darogah to despatch the papers in question, without delay, to the sudder station, under charge of a burkundauze, indenting on the magistrate for the expence incurred in their conveyance, and submitting to the judge a duplicate of the account for his information. The items of expence thus incurred will be charged in the monthly contingent bills of the magistrate's office.

4. The judges are requested to determine the period, within which each moonsiff shall be required to have his records of monthly decisions delivered to the police darogha, with due advertence to the necessity of enforcing the provisions of Circular Order, Sudder Dewanny Adawlut, No. 49, dated 20th September 1839, and with reference to the distance of each receiving thanna from the sudder station.

No. 163

To the several Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces, 6th May, 1844.

By the Construction of the Nizamut Adawlut No. 816, dated the 23d August 1833, magistrates were declared competent to 'remove the chowdhrees of the several trades and professions.' The Court, having re-considered the subject of this Construction, and the principle which it involves, are persuaded that it is based on an incorrect view of the chowdhrees' position, and of the relation in which he stands towards the members of the trade or profession on the one hand and the Government on the other.

2. The chowdhree is the head of the profession, selected and appointed by its members in the exercise of their free choice, with which the Government have no power to interfere, and with them rests the option of dispensing with his services, whenever he may have forfeited their confidence, by abusing the influence incident to his position, or acting detrimentally to their interests.

3. The Court are pleased therefore, with the sanction of Government, to declare Construction No. 816 superseded, and to prohibit any interference on the part of the magisterial authorities in the election, recognition, or removal of chowdhrees, of whatever trade or profession.

No. 164.

To the several sessions Judges in the North Western Provinces and to the Commissioner of Kumaon.

Western Provinces, 14th May, 1844.

CIRCULAR Order dated 29th June 1832, (No. 110, Part II.) having fallen into partial disuse, and the inconvenience, which it was designed to remedy, having been thus revived, the Court are pleased to direct the attention of the sessions judges to the said order, and to request, that in forwarding the proceedings in criminal trials, &c., called for by the Court, they will invariably annex thereto, an extract from the sessions statements, containing whatever information was conveyed in them, relative to the case called for.

No. 165.

To the several Sessions Judges and Magistrates in the North Western Provinces, including the Saugor and Nerbudda Territories, and the Commissioner and Senior Assistants of Kumaon.

Western Provinces, 14th May, 1844.

WITH reference to the Circular Orders of this Court, No. 842, dated 19th June, 1843,* the Court notify, for the guidance of the sessions judges, in the North Western Provinces, and for general information, that section 2, Act XXXI. of 1841, has been held, by the concurrent opinion of the majority of the two Courts of Nizamut Adawlut, to confer upon every convicted offender the privilege of demanding a re-hearing of his case, or, in other words, a second trial; it has been, on the some principle, determined that the mere reception of a petition cannot be considered equivalent to the "appeal permitted" by the Act, but that it is incumbent on the appellate authorities to call for, and examine the proceedings of the lower courts in every case, whether it be a "criminal trial," or "a judicial proceeding other than a criminal trial," from the sentence or final order in which an appeal may be preferred to the superior courts.

2. The Court accordingly inform the appellate authorities, enumerated in section 2, Act XXXI. of 1841, that they are incompetent to reject petitions of appeal of what kind soever, presented to them, within the prescribed time, without a revision of the

* The Circular here alluded to was never printed.

proceedings held in the lower court, and that it is incumbent on them, however manifest the legality or the propriety of the decision passed by the court of first instance may be, to call for, and examine the proceedings of the said court, in every instance of an appeal being instituted before them.

N.o 166.

To the Criminal Authorities in the North Western Provinces including Saugor and Kumaon.

Western Provinces, 17th May, 1841.

The Court publish, for general information, a resolution agreed upon under date the 17th instant, regulating the future practice of the Nizamut Adawlut for the North Western Provinces, in the matter of receiving petitions of appeal from sentences passed in criminal trials by the lower courts, and request, that the sessions judges and magisterial authorities will take measures to make the purport thereof known to all whom it may concern.

2. The rule of practice resolved upon, will come into operation on the 1st July next ensuing.

Resolution.

Read a letter from the register of the Nizamut Adawlut in Calcutta, No. 294, dated 23d February last, relative to the practice pursued by that Court in the reception of petitions of criminal appeal, under Act XXXI. of 1841, from third parties, calling themselves relatives of the prisoners without authority from the real appellants.

Resolved, that the said practice, which is found to have been observed by this Court from its first institution to the present time, is beyond the requirements of law, and in practice objectionable, and that it be forthwith discontinued.

Resolved, further, that henceforth no petition of criminal appeal, even though preferred within the limit of time prescribed by section 2, Act XXXI. of 1841, shall be considered admissible, unless presented by the apellant in person, or by a duly authorised representative; and that all petitions presented in opposition to this rule, shall be rejected, as of course, and put into the record office, without any order being recorded thereupon.

Ordered, that this resolution be adopted as a rule of practice in the reception of petitions of criminal appeal in this Court, and be brought into operation on the 1st July next ensuing.

Ordered, further, that the said resolution be published in the Agra Government Gazette for general information.

No. 167.

*To the Officers in charge of Jails in the North Western Provinces.**

Western Provinces, 21st May, 1844.

WITH reference to the suggestion, contained in the 81st paragraph of the Court's printed report on the administration of criminal justice for 1842, copies of which have been transmitted for the use of the several criminal authorities in the North Western Provinces, the Court notify, that the Military Board have issued instructions, authorising the white-washing of jail wards once in every quarter if necessary, and, oftener, on emergencies, on a written application to that effect being addressed by the officers in charge of jails, to the executive engineer of the division

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No. 168.

To the Magistrates and Officers in Charge of Jails in the North Western Provinces, including Saugor and Kumaon.

Western Provinces, 21st May, 1844.

THE Court, having had under consideration the returns to their Circular letter, No. 794, dated 6th June last, regarding the state of the jails in these provinces, and the effects of the present system of dieting and labour on the health of those sujected to its influence, have, in communication with the Government of the North Western Provinces, and in concurrence with the opinions expressed by the majority of magistrates and medical officers consulted, rejected the scheme, proposed by the Medical Board in Calcutta, of allowing to prisoners two cooked meals daily, as involving the occupation of too much time, and being incompatible with the due exaction of convict labor, and as being opposed to the habits of the laboring classes, of whom the inmates of jails are, for the most part, composed. It is now sufficient, in the opinion of the Court, to intimate, that though the option, accorded by Circular Order, dated 4th May 1842, (No. 107 of this Part,) of allowing a

* See No. 170 of this Part.

daily ration up to the measure of one seer to each prisoner, still remains in force, less may well be given at the discretion of the magistrate and medical officer, and to direct that the scale of diet, within that limit, shall be varied according to the age, sex of, and amount of labor exacted from, the prisoners.

2. On inspection of the returns alluded to, it is found, that the practice of meridian intermission of labor, of longer or shorter duration, according to the season of the year, almost universally prevails, and that in the jails of the North Western Provinces, some system, more or less effective according to the efforts and ability of individual magistrates, of classifying prisoners according to physical strength, is observed, a distinction being maintained between the kind of work assigned to the weak and aged, and that given to the robust. The Court, however, consider these precautions of sufficient importance, to be more particularly urged upon the attention of the magistrate, as being closely connected with the internal economy and discipline of the prisons, and well calculated to promote the health of those confined within their precincts.—The magistrates will be expected to communicate freely with the medical officers in charge of jails on these points, and to exercise a sound discretion, in allowing a cessation from labor during the heat of the day, and in proportioning the amount and description of labor to the physical ability of those from whom it is exacted.

No. 169.

To the Civil and Criminal Authorities in the Lower and Western Provinces.

Lower and Western Provinces, 11*th June*, 1844.

The Court, having ascertained that the injunction contained in the Circular Order, dated 21st October, 1842, (No. 121 of this Part,) has been frequently disregarded, and having, in consequence, been troubled with numerous references from the superintendent of the Government lithographic press, are pleased to recall the attention of the civil and criminal authorities to the same, and to direct that when indenting for statements, &c., they will invariably forward with their indents "a specimen of the smallest size of paper, on which the forms may be executed without material inconvenience."

No. 170.

To the Magistrates and other Officers in charge of Jails in the North Western Provinces.

Western Provinces, 19th June, 1844.

WITH reference to circular order, Nizamut, Adawlut, North Western Provinces, dated 21st ultimo, (No. 167 of this Part,) the Court direct the publication of the following extract, [paragraph 1,] from a letter addressed by the executive engineer of the 10th division to the superintending engineer, North Western Provinces, thinking it possible that the noxious and objectionable practices, which are therein described, as obtaining in some of the jails under his charge, may be found to prevail in others, and deeming their prohibition and abandonment essential to the cleanliness and salubrity of those buildings; magistrates and other officers having charge of jails, being at liberty, under the instructions above cited, to require the white-washing of jail wards once in every quarter, or oftener if necessary, will be held responsible for their being kept in pure and cleanly condition; if the prevention of defilement be impossible, the remedy is at hand, and the application thereof rests with the magisterial authorities.

Extract [paragraph 1,] from a letter from Captain J. N. Sharp, executive engineer 10th division, to Major F. Abbott, superintending engineer, North Western Provinces, dated 1st May 1844.

"In reply to your letter, No. 3113, of the 2d ultimo, and its annexure, on the subject of white-washing jail buildings generally, and of the —— one in particular, I beg to state for your information, that, as far as my own observation extends, more than usual pains are taken in the white-washing of these buildings, and for their dirty appearance no blame can be attached to this department, whilst the prisoners are permitted to spit upon the walls until they are caked with filth, to smoke, and to burn fires in the buildings, as I have invariably witnessed, when inspecting them; for several feet above the floor, the walls are so greasy, that no white-wash will adhere to them, and even when this has been effected, it is immediately removed by the prisoners rubbing against them."

No. 171.

To the Session Judges in the Lower Provinces.

Lower Provinces, 5th July, 1844.

THE Court observing that it is still the practice in some districts to try dacoitee cases with the assistance of a law officer, request

the attention of the session judges to the provisions of sections 2 and 3, Act XXIV. 1843.*

No. 172.

To the Session Judges and Commissioners in the Lower Provinces.

Lower Provinces, 19th July, 1844.

The Court request that you will enter, in the margins of the letters with which you may transmit petitions of appeal from your own sentences, the dates of the sentences appealed from and of presentation of the petition.

No. 173.

To the Criminal Authorities in the Lower Provinces.

Lower Provinces, 26th July, 1844.

To remove doubts which may exist on the point, the Court are pleased to notify, for general information, that officers invested with the full powers of magistrate, are competent to make commitments to the sessions in cases referred to them which may be beyond their competency to decide.

No. 174.

To the several Criminal Authorities in the Lower Provinces.

Lower and Western Provinces, 26th July, 1844.

Doubts having been expressed, regarding the application of certain parts of Act III. of 1844, it is notified, for the information and guidance of the criminal authorities, that, by the concurred opinion of the Courts of Nizamut Adawlut for the Lower and Western Provinces, it has been determined that "magistrates," "joint magistrates," and "persons lawfully exercising the power of a magistrate," are alone competent to award corporal punishment, relatively to the definition of the term "magistrate," given in Section 4, Act II. of 1839.

2. By Section 1 of the Act, magistrates are declared *competent*, in certain cases, to inflict corporal punishment on adult offenders, and are at liberty, therefore, whenever they may

* See the last Circular in this Part.

deem such a course preferable, to sentence such offenders, when convicted of theft of property not exceeding rupees 50 in value, to the other penalties prescribed by pre-existing laws for that offence. Section 2, on the other hand, leaves no discretion whatever to the magistrate as regards juvenile offenders—imperatively enacting that he shall punish such in cases of the nature under notice, rather in the way of school discipline, than ordinary criminal justice, by sentencing them to undergo corporal punishment with a light ratan.

3. A question has arisen regarding the course to be pursued towards persons convicted a second time of theft of property not exceeding rupees 50 in value, whether corporal punishment should be repeated, or other regulations, providing for such contingencies, enforced. Referring to the above construction of this law, which leaves the infliction of corporal punishment, or the imposition of other penalty on adult offenders, in cases falling under its provisions, discretionary with the magistrate on primary conviction, the Courts of Nizamut Adawlut have ruled, that, as regards those offenders, a similar discretionary power is vested in the magistrate, relatively to secondary convictions, and, further in maintenance of the broad distinction between the cases of adult and juvenile offenders, have determined, that if a juvenile offender who may have been once sentenced to corporal punishment be still, on the occasion of his re-apprehension, and second conviction of theft of property, not exceeding rupees 50 in value, of such tender years, as to require, in the opinion of the magistrate, that he should be punished rather in the way of school discipline than ordinary criminal justice, it will be incumbent on the magistrate to pass sentence of corporal punishment.

4. From the definition of "magistrate," contained in the 1st paragraph of this order, it will, of course, be understood that corporal punishment must be inflicted in the presence of the "magistrate," "joint magistrate," or other "person lawfully exercising the power of a magistrate."

No. 175.

*To the Sessions Judges in the North Western Provinces.**

Western Provinces, 22d August, 1844.

The Court of Nizamut Adawlut for the North Western Provinces request the attention of the session judges to the provisions of sections 2 and 3, Act XXIV. of 1843, and direct that the practice, if still prevalent, of trying dacoitee cases with the assistance of a law officer, be discontinued.

* See the last circular in this Part.

No. 176.

To the Magisterial Authorities in the North Western Provinces.

Western Provinces, 24th August, 1844.

It is believed, that commissariat officers, on the formation of large camps, and the aggregation of large bodies of troops, have been in the habit of requiring the intervention of magisterial authority in procuring the attendance of trades people and artificers, of various denominations, to accompany such camps without remuneration, asserting, that they must trust to their chance of private employment, while with the camp, for their recompence; with such requisitions, magistrates have ordinarily complied without objection, and without reference to the illegality and injustice of such impressment.

2. The subject having been recently brought to the notice of the Court, and represented to Government, the Military Board were requested to prevent the magistrates being called upon to enforce the attendance of artificers and trades people in military camps, or to explain the principle, on which the practice rested, and they have, in the subjoined letter, (which is published for general information,) disclaimed all participation therein, adding that "the impressment of men, whether for bazars or other purposes, is strictly prohibited."

3. Magistrates are accordingly requested to observe, that all requisitions of the nature above described, are discountenanced by the Military Board, that compliance therewith is denounced as "illegal and unjust," and that the reponsibility of withholding such compliance from applications for the illegal exercise of their authority devolves upon them solely and entirely. The practice of pressing trades people and artisans to follow military camps, with or without remuneration, is hereby strictly interdicted; and the magisterial authorities will be careful in future to exert their official influence, in aid of the commissariat officers, only in such mode and measure, as may be consistent with the requirements and directions of law.

Copy of a letter, No. 1, *dated* 16*th July*, 1844, *from the Military Board to the Hon'ble the Lieutenant Governor, North Western Provinces.*

Hon'ble Sir,—We beg to acknowledge the receipt of Secretary Mr. Thornton's letter No. 2275, of the 15th ultimo, with its accompanying copy of a communication from the Court of Nizamut Adawlut and enclosures, on the subject of compelling artisans and trades people to follow military camps, and in reply to state

that we consider the practice brought to notice altogether illegal and unjust, and one in which we beg to disclaim any participation. The impressment of men, whether for bazars or other purposes, is strictly prohibited, and it is not our wish, nor we may safely assert that of the commissariat, that it should be continued any longer.

2. The magistrate of ———— states that the practice in question is illegal, and yet acknowledges, that he or his predecessors have, for a series of years, been in the habit of so acting illegally, on the mere request of a commissariat officer. We would suggest, that the magistrate be advised, that it rests entirely with himself to refuse compliance with any application for the illegal exercise of his authority.

No. 177.

To the Magisterial Authorities in the North Western Provinces.

Western Provinces, 4th September, 1844.

The Court of Nizamut Adawlut, for the North Western Provinces, having had under their consideration the returns to their circular letter, No. 899, dated 1st June last, regarding the bestowal of money, new clothes, &c., on condemned criminals before they are led to execution, are pleased to interdict the practice, which is found to have been generally prevalent, and to prohibit all such donations and indulgences, as being calculated to detract from the force and effect of the solemn warning which the adjudgment of the last penalty of the law is designed and intended to convey.

No. 178.

To the several Sessions Judges in the Lower and Western Provinces.

Lower Provinces, 6th September, 1844.
Western Provinces, 11th October, 1844.

The Court, having reason to believe that session judges, in awarding sentence on conviction of the offence of affray attended with homicide, do not pay attention to the provisions of Regulations II. 1823 and VI. 1828, direct me to desire that whenever in such cases a sentence less than five years' imprisonment may

be awarded, you will invariably insert in your remarks on the trial, that the affray was not premeditated on both sides.*

No. 179.

To the Criminal Authorities in the Lower Provinces.

Lower Provinces, 13th September, 1844.

I AM directed by the Court to transmit to you, for your information, the accompanying copy of a letter No. 1395, dated the 3d instant, and its enclosure, from the Under Secretary to the Government of Bengal, authorizing jailors to be included in the list of public servants entitled, under existing pension rules, to a superannuation pension.

From the Government of Bengal to the Court, No. 1395, *dated the 3d September*, 1844.

I am directed by the honorable the Deputy Governor of Bengal to forward the accompanying copy of a resolution passed by the Government of India, in the Home Department, under date the 17th ultimo, authorizing jailors, when duly qualified by service and good conduct, to be included in the list of public servants entitled, under the existing pension rules, to a superannuation pension.

2. The Court are requested to communicate these orders to all the officers in charge of jails within this Presidency.

No. 151.

Home Department, the 17th August, 1844.

Read again a letter from the secretary to Government of Fort St. George, No. 368, dated the 10th June last, with its enclosure, recommending that jailors may be included in the list of public servants entitled to a superannuation pension.

Read again a letter to the secretary to the Government of Bengal, No 350, dated the 6th ultimo, enquiring whether jailors, under the Bengal Presidency, are entitled to superannuation pensions.

Read a letter from the under secretary to the Government of Bengal, No. 1902, dated the 25th idem, stating that the pension rules of the Bengal Presidency contain no provision for the grant

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* It is not imperative on a magistrate to commit both parties in an affray. See Construction 778.

of retiring allowances to jail darogahs, although police darogahs are included in the list of public servants to whom the rules are applicable, and conveying the opinion of the honorable the Deputy Governor that the responsibility attaching to the situations of jailors entitles them to some reward for long and faithful service.

Read again pension rules passed on the 4th January 1831.

Resolution.—The Governor General in Council concurring in opinion with the Governments of Madras and Bengal, that this class of public servants should be permitted to share in the benefit of the rules in question,

Ordered: That the Governments of Bengal, Madras, Bombay, and the North Western Provinces be authorized to include jailors in the list of public servants, entitled, under the existing pension rules, to a superannuation pension.

Ordered also: That a copy of this resolution be sent to the Financial Department, whence the necessary communication will be made to the offices of audit and account.

No. 180.

To the Criminal Authorities in the Lower Provinces and Extra Regulation Provinces.

Lower Provinces, 20th September, 1844.

I am directed by the Court to call your attention to Act XVIII. of 1844, with a view to your addressing the Government direct on all matters therein indicated, regarding which you hitherto corresponded with the Nizamut Adawlut.*

No. 181.

To the Civil and Criminal Authorities in the Lower Provinces.

Lower Provinces, 20th September, 1844.

I am directed by the Court to request that you will consider the circular order No. 2307, of the 8th July, 1842, regarding the endorsement of public letters, as superseded.†

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* See letter from the under secretary to Government in the Appendix.

† This circular has not been inserted among those recently printed for 1844, but it hasbeen retained here as it supersedes one issued by orders of the late Governor General; and in consequence of its insertion all the numbers following to No. 192 are one higher than the numbers in the quarto edition :—for instance No. 182 for 181, &c.

No. 182.

To the Session Judges in the North Western Provinces and Saugor and Nerbudda Territories, and the Commissioner of Kumaon.

Western Provinces, 24th September, 1844.

The Court hereby notify, that the instructions contained in paragraph 2 of circular order, Nizamut Adawlut, dated 16th December, (1843, No. 153, of this Part,) are intended to apply to trials held with the assistance of a law officer, and to nonc other.

No. 183.

To the Magistrates and Joint Magistrates in the Lower Provinces.

Lower Provinces, 27th September, 1844.

The Court, having had before them the replies of the several magisterial authorities to their circular order No. 7, of the 26th April last, are pleased, with the sanction of Government, to direct that, in all future cases, condemned criminals, if not possessed of decent clothes, be invariably supplied with a suit and a cap, and, at the same time, to prohibit the practice heretofore existing in some districts, of allowing music, money, and other indulgences.

No. 184.

To the several Session Judges and Commissioners in the Lower and Western Provinces.

Lower and Western Provinces, 27th September, 1844.

The circular order of the Nizamut Adawlut, dated 8th May, 1820, (No. 233, Part I.) requires that in cases of persons convicted of having committed any penal act, while under the dominion of insanity, the session judges shall invariably submit their proceedings, together with the magistrate's proceedings, held on the commitment of the prisoner, to the Nizamut Adawlut "for revision and final sentence,"—provided that the crime charged in the indictment be such as would render a reference to that Court necessary.

2. The courts of Nizamut Adawlut for the Lower and Western Provinces, having re-considered the principle of this

circular order, are of opinion that it is based on an incorrect view of law, and opposed to proper judicial practice. It is a maxim of English law, that insanity incapacitates from crime; and, in the 6th paragraph of circular order of Nizamut Adawlut, dated 11th February 1825, (No. 307, Part I.) in accordance with this maxim, it is remarked that " satisfactory proof of insanity at the time of the act being committed, as it would preclude the imputation of guilt, must also exempt the insane person from conviction and punishment." Regarded in this light, a finding of insanity at the time of the deed being committed, is tantamount to a declaration of the innocence, and necessarily to be followed by a sentence of acquittal in favor, of the prisoner, and renders the reference of the trial for the " final sentence" of the Nizamut Adawlut superfluous, since session judges, being competent to determine the value of evidence, and empowered, on finding it insufficient, to acquit finally, prisoners arraigned for offences punishable only by the Nizamut Adawlut, must by parity of reasoning be held equally competent to pass sentence of acquittal on persons found to have committed penal acts, while in a state of mental aberration, even though the power to punish the perpetration of such acts by responsible agents, rests only with the Nizamut Adawlut.

3. On these grounds it has been held by the courts of Nizamut Adawlut, for the North Western and Lower Provinces, that a judgment of the nature above mentioned—that of a party having committed a penal act, while in a state of insanity, is equivalent to a final sentence of acquittal, and that such sentence pronounced by a session judge being legally intangible and irreversible by the Nizamut Adawlut, precludes the necessity of a reference of the trial to that Court for judgment in regard to the guilt or innocence of the prisoner.

4. In modification, therefore, of the circular orders quoted marginally*, the Court are pleased to determine that session judges shall be held empowered to acquit finally all parties proved to have committed penal offences while laboring under insanity, and shall be required only to report such cases for the orders of the Court in regard to the future safe custody of the prisoner, whenever the crime charged may be such as, if committed by a responsible agent, would have rendered a reference to the Nizamut Adawlut necessary. On receipt of these orders, sentence will issue in the fram prescribed by circular order, Nizamut Adawlut, dated 4th September, 1840, No. 62, of this Part.)

* Circular orders, Nizamut Adawlut, Nos. 233 and 207, Part I.

No. 186.

To the several Criminal Authorities in the Lower and Western Provinces.

Lower Provinces, 18*th October*, 1844.
Western Provinces, 29*th November*, 1845.

The following rule, in modification of the 1st rule of the circular order, dated L. P. 1st March and W. P. 18th June 1841, (No. 82, of this Part,) on the subject of Act XXIII. 1840, is published for general information.

Every criminal process will be directed to the justices of the peace for the town of Calcutta, but forwarded in an envelope to the Hon'ble Company's attorney, either by dawk or by the hands of a peon or other public officer as may be most convenient, with a letter drawn up agreeably to the annexed form A. The Honorable Company's attorney will prepare it for endorsement by a judge of the Supreme Court, and, after endorsement, transmit it (accompanied with the letter above mentioned,) to the police office for execution.

2. The words "the deputy sheriff" occurring in the 3d and 6th of the rules of the above mentioned circular order, are to be altered to "the Honorable Company's attorney."

A.

To the Honorable Company's Attorney,
CALCUTTA.

SIR,

I beg leave to enclose (a notice* to be served on the parties therein named) which I request you will have the goodness to present to the judges of her Majesty's Court agreeably to Act XXIII. 1840.

2. On intimation being made to me of the expenses of serving this process, the amount will be forwarded to the justices by a bill on the General Treasury. A person will attend hereafter (or, a person accompanies this letter,) to point out the parties.

I have, &c.,
(Signed) ————,
Magistrate.

Zillah
January, 1844.

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* (A proclamation to be affixed to the outer door of the house in which the parties reside,)
or
A subpœna to be served on the witnesses therein named,)
or
(A warrant to seize and apprehend the witnesses therein named) and so forth, mutatis mutandis.

No 187.

To the Civil and Criminal Authorities in the Lower Provinces and Extra Regulation Provinces.

Lower Provinces, 25th October, 1844.

THE Court are pleased to direct, with the sanction of the Government, that the rule in section 2, Regulation XXXVIII. 1793, prohibiting public officers from lending money to persons within their jurisdiction, be extended to all uncovenanted judicial officers.

No. 188.

To the Session Judges in the Lower Provinces and the Authorities in the Extra Regulation Provinces.

Lower Provinces, 25th October, 1844.

THE Court request that the following rules be attended to in the transmission of the records of trials regularly referred to or called for by them.

1. A copy of the English calendar to be invariably placed with the nuthee, and a mark placed opposite the name of every witness included therein who may have been examined on the trial.

2. The preparation of the list of papers composing the record, to be carefully superintended.*

3. As many trials are now required to be submitted in original, all depositions are to be correctly and legibly written.

No. 189.

To the Civil and Criminal Authorities in the North Western Provinces.

Western Provinces, 25th October, 1844.

THE Court are induced to presume, that the security bonds, executed by the sureties of the judicial treasurers, and other officers entrusted with the charge of money, whether public or belonging to private individuals, are drawn up in terms so vague and indefinite, as to impair their sufficiency, and that, notwithstnading the instructions contained in circular orders, Sudder Dewanny Adawlut, cited marginally,† and the check imposed by

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* For the form for the preparation of these lists, (originally appended to No. 54, Part II.) see Appendix.

† No. 34, dated 23d September 1831.
No. 150, ditto 3d July 1835.
No. 193, ditto 20th January 1837.

the periodical submission of the statement and certificate thereby prescribed, the securities are not annually examined and revised with that careful scrutiny, which has been strictly enjoined.

2. The several judicial officers were desired, in taking securities, to be careful that the sureties should bind themselves and their heirs to make good all losses sustained by the default or fraud of the officer, for whose conduct they became responsible, and to secure the pignoration of property on the part of the surety, the amount of which should be determinable by the value of the property or the amount of money likely to be left in hands of the officers, from whom the security was demanded.

3. The Court, having reason to believe, that the terms of the security bonds, executed by the sureties of judicial treasurers and other officers above indicated, do not express the full measure of the liability, implied in the instructions above cited, are pleased to subjoin a form of bond which sufficiently comprehends all the obligations assumed by sureties, and to direct, that the judicial authorities, in enquiring into the sufficiency of the security of the officers on their establishments at the approaching termination of the year, will be pleased to compare carefully the phraseology of the bonds, (which on this and every other occasion of the like nature should be invariably subjected to their inspection,) with the terms of the annexed formula,* in the event of the former being deficient in clearness and comprehensiveness, or essentially different from that contemplated by circular order of the 23d September 1831, No. 34, to cause new security bonds to be executed by the sureties, corresponding with that which is appended to this order.

4. In reporting the result of the prescribed revision, according to the prescribed form, the judicial authorities are hereby required to certify, that the bonds have been carefully examined, and found to correspond in their terms with the annexed formula* and that memorials thereof have been registered in pursuance of the instructions conveyed in circular order, Sudder Dewanny Adawlut, No. 15, dated 2d May, 1843.

5. It will be of course understood, that the obligation, resting on the judicial authorities, of instituting the necessary inquiries to establish the validity and sufficiency of the security, furnished by those of their subordinates, who hold offices of pecuniary responsibility, remains unimpaired, and that the certificate, prescribed by circular order, Sudder Dewanny and Nizamut Adawlut, No. 193, dated 20th January 1837, must be invariably inserted at the foot of the annual statement, which they are directed by orders above referred to, to submit.

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* For the form of the bond, see Appendix.

No. 190.

To the Civil and Sessions Judges in the North Western Provinces, and Saugor and Nerbudda Territories, and the Commissioner of Kumaon.

Western Provinces, 18th November, 1844.

The Court, finding that the orders of Government, dated 31st March 1834, on the subject of contingent charges, incurrable by the civil and sessions judges, are frequently overlooked, are pleased to publish an extract (paragraphs 1 and 2) from the same, for general information, and direct, that the authorities, to whom they are applicable, will henceforward follow the practice thereby prescribed and cease to submit applications for the disbursement of money through the intervention of the Court.

Extract (paragraphs 1 *and* 2*) from the orders of Government, dated* 31*st March*, 1834.

Para. 1. In modification of the existing rules, on the subject of the contingent charges of the office of civil and sessions judge and commissioner of circuit, the honorable the Vice President in Council is pleased to determine, monthly statements of such charges incurred by them shall in future be forwarded by the civil and sessions judges, and by the commissioners respectively, to the civil auditor. The duty of examining and checking the statements being vested in that officer, who will possess authority to pass without further reference, all such items of charge as he may think usual and unobjectionable, whatever their amount, reporting those which may not be of that character, in quarterly statements, for the consideration and orders of Government.

2. It is to be understood, that it will not be necessary to apply for the sanction of the civil auditor, previously to incurring any contingent charge. Disbursements may be made in the first instance on the responsibility of the civil and sessions judges, or the commissioners, as the case may be.

No. 191.

To the Criminal Authorities in the North Western Provinces, the Saugor and Nerbudda Territories, and the Provinces of Kumaon.

Western Provinces, 27th December, 1844.

The Court are pleased, with the sanction of Government, to direct that the magistrates will continue to transmit, as heretofore, for their orders, all applications for the discharge of prisoners, suffering from blindness or other confirmed bodily infirmity,

incapacitating them from labor, and rendering the remission of the unexpired portion of their sentences advisable. Act XVIII. of 1844, which relieves the Courts of Nizamut Adawlut from the control and superintendence of jails, does not interfere with the privilege, heretofore exercised by the Court under express instructions from the local Government, of releasing blind and infirm prisoners within certain specified limits.

2. The Court take this opportunity of directing the attention of the several authorities concerned to the instructions contained in circular order, Nizamut Adawlut, dated 6th January 1837, (No. 218, Part II.) and enjoining the strictest conformity thereto in all applications, which may be hereafter submitted.

No. 192.

To the Officers in charge of Jails in the North Western Provinces.

Western Provinces, 20th January, 1844.

The Court of Nizamut Adawlut, having been relieved by Act XVIII. of 1844, from the duty of supervising the management of jails, and all matters therewith connected, request that the submission of the six-monthly reports, prescribed by circular order Nizamut Adawlut, No. 176, dated 31st July, 1835, may be henceforth discontinued, and that the criminal authorities will be guided in regard to these returns and other matters of the same description, by such instructions as they may receive from the Government of the North Western Provinces.

No. 193.

To the several Criminal Authorities in the Lower Provinces and Extra Regulation Provinces.

Lower Provinces, 31st January, 1845.

In pursuance of instructions from the Government, the Court circulate the subjoined extract from a despatch from the Honorable the Court of Directors, for the information and guidance of the criminal authorities.

Extract from a Despatch from the Honorable the Court of Directors in the Legislative Department, dated the 4th September, 1844, *No.* 21.

Para. 32. It is represented that the crime of dacoity is followed professionally by considerable numbers, as a means of livelihood, in our own territories, and in those of native states; and that the robberies are committed by regularly organized gangs acting

under the direction of recognized leaders. The object of the present Act is to apply to Dacoits the special provisions which have proved very efficacious in suppressing the crime of thuggee under similar circumstances. Persons proved to have belonged to any gang of dacoits, are made liable to transportation for life, without the necessity of proving their participation in any act of dacoity; and persons accused of that offence, wherever committed, may be brought for trial before any court of competent jurisdiction.

33. We do not withhold our sanction even of an enactment of so great severity for an object of such incalculable benefit to society, as the effectual suppression of dacoity; but we must earnestly call your attention to the caution addressed to you in our judicial despatch of the 28th August 1839, to be on your guard against the abuse and oppression to which the systematic and exclusive employment of *approvers*, for the conviction of accused persons, is necessarily liable. The testimony of men, by their own acknowledgment stained with the same crimes which they lay to the charge of others, stands always in need of some corroborative evidence; and if it be received with favor, or without distrust, may, from vindictive, or selfish motives, or even from mere wantonness, be turned equally against the innocent and the guilty. We regret that you should have thought it necessary to make the Act retrospective in its operation, as, under a strict interpretation, parties who have ceased to belong to gangs of Dacoits, may be rendered liable to its penalties. You will be careful to guard against such evil consequences from the new enactment; and if your precaution should prove ineffectual, you will not fail to rescind it.*

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* This circular, though issued in 1845 has been inserted, as it has reference to an Act passed in 1843 now in full operation.

APPENDIX.

Letter from the Register of the Nizamut Adawlut, alluded to in the note to No. 79, Part I, page 36.

No. 1818.

To R. Barlow, Esq.,

Session Judge of Rajshahye.

Sir,—I am directed by the Court to acknowledge the receipt of your letter of the 18th ultimo, No. 39, and its enclosures, and in reply to communicate to you their opinion, that as Mr. B. had been discharged by competent authority, and not committed for trial to the Supreme Court, it was not necessary for the magistrate to apply to this Court for instructions, before committing the natives, charged with the affray, to the sessions court.

2. I am directed to add that circular order, 4th January, 1811 (No. 79 of Vol. I.) does not require the magistrate to apply for instructions in regard to the preliminary inquiry: it is only when the result of that inquiry may lead to the commitment of he European, that the applications become necessary.

I am, &c.

(Signed) J. F. M. Reid,
Register.

Fort William, the 12th August, 1836.

Extract from a Letter of the Register of the Nizamut Adawlut to the Session Judge of Rajshahye, dated 3d November, 1843, *alluded to in Note (q) to No.* 54, *Part* II, *page* 188.

The Court, having had before them your letter, dated 16th September last, in the case of Nuboo Khan and others, direct me to communicate to you the following observatiops.

2. In regard to your ordering the commitment of the prisoners upon a higher charge than that upon which they were committed by the magistrate, you were informed by the revising judge that you possessed no power to do so. The order communicated to you was in strict conformity with the present practice of the Court: it having been held by the Court that, since the enact-

ment of Act XXXI. of 1841, the session judge has no power to alter an indictment or charge once preferred by a magistrate against a prisoner, *to the prejudice of such prisoner.* The cases then cited by you, in which you seem to apprehend that orders contrary to the above were passed by another judge of this Court, do not apply; the observation made in regard to them was *to the effect,* that "it would have been better, before proceeding to the trial, had you directed the magistrate to alter the charge against the prisoners to one of a *minor* grade to that upon which they had been committed."

3. As the Court's opinion of the law is generally known and practically adhered to, by the session judges within their jurisdiction, they do not consider any circular orders on the subject to be necessary.

Letter from the Under Secretary to Government, alluded to in the notes to Nos. 183 *and* 218, *Part* II. *and Nos.* 119 *and* 180, *Part* III.

CIRCULAR, No. 1072.

From the Under Secretary to the Government of Bengal, dated Fort William, 10*th October,* 1844.

SIR,—The following instructions are issued for your guidance, with reference to the passing of Act XVIII. of 1844 for the better control and management of jails.

2. The magistrates, joint magistrates, or other officers in direct charge of jails, will be held solely responsible for the management of the same to Government.

3. The officers in question will forward the monthly statements of prisoners and the half-yearly and annual reports of ditto, through the session judges, to Government, receiving, through the session judges, all orders regarding the internal economy of jails, their discipline, establishment, employment of convict labor, and every thing connected with their general management.

4. The session judges will visit the jails monthly, to enquire into their condition and that of their inmates, and will submit to Government, when forwarding the periodical statements of the magistrates or immediately in urgent cases, their own remarks on the condition of the jails, for such orders either in regard to individual cases, or the general conduct of the jail duties, as may appear to be required.

5. All statements of prisoners sentenced to imprisonment in banishment, or in transportation, or for life in the Allipore jail, will be forwarded by the magistrates for the orders of Government.

6. Abstracts in a tabular form of such sentences, passed by the Sudder Nizamut Adawlut or the session judges, will be forwarded to Government by the Court and the session judges respectively. Such abstracts will be forwarded by the Sudder Court as soon after the date of sentence, as may be practicable, but abstracts of sentences of banishment, passed by session judges, shall not be transmitted by them until after the expiration of three months from the date of sentence, in order to allow of that period for appeal.

7. Statements of prisoners recommended for release, on account of meritorious conduct, or of severe bodily infirmity, will be forwarded to Government by the magistrates through the session judges.

8. Orders of magistrates for the dismissal of officers of the jail establishment shall be final. It will rest with the session judges, as directed in clause 7, Section 7, Regulation XVII. 1816, to report to Government any cases, in which a magistrate may abuse this authority.

9. The reports regarding the escape of prisoners to the session judges and the superintendents of police, required from magistrates by clauses 1 and 2, Section 14, Regulation XVII. 1816, shall be forwarded as heretofore; but the power of sanctioning rewards for the re-apprehension of escaped prisoners, will now be transferred from the superintendents of police to the magistrates, who are hereby authorized to proclaim rewards in such cases to the extent of fifty rupees. In cases where it may be deemed expedient to offer a higher reward than the above, the magistrates will report the circumstances direct to Government, for its sanction. In cases however in which heinous offenders may have escaped, or on occasions of emergency, the magistrates shall exercise a discretion, as heretofore, in offering a reward not exceeding the sum of one hundred rupees, reporting the offer for the confirmation of Government.

10. The duty of inspecting and supervising the Allipore jail, which by Sections 11 and 12, Regulation XIV. 1816, is vested in the judges of the Sudder Nizamut Adawlut, will now be transferred to the judge of the 24-Pergunnahs, whose duties in regard to the said jail shall be the same, as those prescribed for session judges generally in paras. 3, 4, 7, 8, and 9 of this circular.

I have, &c.

(Signed) A. Turnbull,

Under Secretary to the Government of Bengal.

Translation of the Notification referred to in Circular Order, No. 57, Part I, and alluded to in the Note to page 21.

اشتهار نامه مصدرهٔ صاحبان عالیشان عدالت نظامت
واقع تاریخ چهارم ماه نومبر سنه ۱۸۰۹ عیسوی

چون در بسولا بظهور پیوست که شخصی عهده دار متوطن
این دیار بجواب دعوی تبدیل فریبی کواغذ سررشتهٔ سرکار
بدین گونه عذر آورد که این حرکت بموجب حکم صاحب
مجستریت ضلع بعمل آمده لهذا برای اطلاع و آگاهی
جمیع عهده داران ملازم سرکار متوطن این ملک اشتهار
و اعلان نموده می آید که اگر احدی از انها از روی حیله
و فریب یا بقصد نقصان دیگری کاغذات سررشته
سرکار جعل سازد و یا تبدیل مراتب آن نماید مجرم بجرم
جعل سازی متصور گشته مستوجب سزای معینه
قانون دوم سنه ۱۸۰۷ عیسوی خواهد بود و این چنین
عذر یکه تبدیل یا جعل سازی مزبوره بموجب حکم منیب
یا احدی از مختار سررشته یا بگفتهٔ شخصی دیگر بعمل آمده
بوجه من الوجوه قابل سماعت و پذیرائی نخواهد شد فقط

FORM of the Record of a Criminal Trial, prescribed by paragraphs 2 and 3 of the Circular Order, dated the 16th of July, 1830, *No.* 54, *Part II. and alluded to in note (d) and also in the note to No.* 188, *Part III.*

N. B. The original was written on country paper 12½ by 9½ inches.

فہرست نمبرواری کاغذات مقدمہ نمبر فلان کاندرہ و در فلان سنہ فلان ضلع فلان

۱ اظہار مدعی

۲ جواب بندرابن داس مدعاعلیہ

۳ جواب ہردیال مدعاعلیہ

۴ زبان بندی فلان گواہ ماجرا

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۶ زبان بندی فلان گواہ ایضا

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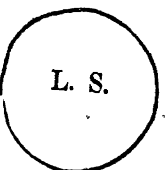
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Court of the Commissioner of Circuit for the Division.
Jail Delivery for the Zillah [City or Joint Magistracy] of for the Sessions of 183 , held at
No. of Calendar.*

GOVERNMENT, ...*Prosecutor.*

1 *BINDRABUN DOSS, son of Huranund, aged* 36 *years.*
2 *HURDYAL, son of Govind Pershad, aged* 50 *years.* } *Prisoners.*

Charge—Murder.



(True Copy.)

A. B.
Commissioner.

* For an amended heading see the next Persian form in this Appendix.

روداد تجویز عدالت دایر و سایر علاقهٔ قسمت فلان مقام فلان باجلاس صاحب کمشنر و روبروی فلان مولوی عدالت ضلع فلان مقدمه نمبر فلان کاسنده ضلع فلان و در فلان سنه فلان واقع تاریخ فلان

دربنجا درصورتیکه مثل مقدمه بیک روز باتمام نرسد ذکر تواریخ مثل هرروزه درج یابد

حاکم .... مدعی

۱ بندرا بن داس پسر هرانند عمر سی و شش ساله ... مدعاعلیه

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جرم قتل عمد

تاریخ وقوع جرم

بتاریخ فلان ماه فلان مطابق فلان سنه فلان روز فلان عندالطلب عمله فوجداری طرفین را مع مال واله ضرب حسب تفصیل درین محکمه حاضر آورد

درینجا نام حربه بتعین طول و عرض و مقدار وزن آن و از کجا برآمده مع حالات برآمدن اندراج یابد

* بیان اله ضرب

مثلا نمبر ۱ ایک ضرب شلاق آهن بند طول چهار دست عرض بطرف *
شلاق مدور برابر حلقهٔ انگشت سبابه وابهام و بطرف زیر شلاق مذکور
تایکدست آهن بند مدور برابر حلقهٔ دو انگشت دالهٔ ضرب مذکور خون الوده
از چهپر بند رابن مدعاعلیه برآمد

بیان مال

درینجا تعین مال بقید نمبر و نشان اندراج یابد و ذکر اینهم ضرور که
فلان مال از کجا برآمده مع حالات مفصل برآمدن آن
مثلا نمبر ۲ یک فرد دهوتی کهنه خون آلوده از خانهٔ هردیال مدعاعلیه
حسب نشان دهی او برآمده
مثلا نمبر ۳ یک جفت کرا نقره بدیوار خانهٔ فلان مدعاعلیه مدفون بود
حسب نشان دهی او برآمده بوزن پنج بهری است
درصورتیکه وکیل سرکار مدعی شود نقل عرضی او مندرج گردد ودرصورت

۱ اظهار فلان مدعی

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۳ جواب هردیال مدعا علیه	ایضا ....
۴ زبان بندی فلان گواه ماجرا	در صورتیکه در میان اظهار مفصلی خواه فوجداری خواه دایر و سایری چیزی فرق واقع شود صاحب کمشنر سبب آن از گواه استفسار نموده درج سازند
۵ زبان بندی فلان گواه ایضا	ایضا ....
۶ زبان بندی فلان گواه ایضا	ایضا ....
۷ زبان بندی فلان گواه صورتحال	بعد ادای شهادت فرد تحقیقات لاش حرف بحرف بگواه شنوانیده شد و گواه آنرا شنیده تصدیق نموده دستخط خود نشان داد
۸ زبان بندی فلان گواه ایضا	ایضا ....

۹ اصل صورتحال تحقیقات لاش

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۱۰ زبان بندی ڈاکتر صاحب خواه ڈاکتر هندوستانی

اظهار ڈاکتر صاحب بیننده لاش یا بسبب غیر حاضریش اظهار ڈاکتر هندوستانی حانفا گرفته شود و نیز ترجمهٔ آن بزبان فارسی اگر اصل بزبان انگریزی خواه بزبان دیگر باشد طیار شده شامل رویداد گردد.

۱۱ ترجمهٔ آن بزبان فارسی

ترجمهٔ آن بزبان فارسی ....

۱۲ زبان بندی فلان گواه اقرار مفصلی

اظهار گواه بتصریح اینکه بکدام وقت و بکدام صورت و بکدام مضمون اقرار مدعاعلیه شده است بعده اصل اقرار مدعاعلیه بگواه مذکور بلفظ بلفظ شنوانیده و آنرا شنیده تصدیق نمود و دستخط خود نشانداد

۱۳ زبان بندی فلان گواه ایضا

ایضا ....

۱۴ اصل اقرار مفصلی بند را بن مدعاعلیه

بعد تصدیق اقرار مفصلی اسامیان اصل اقرار انها مع ترجمهٔ آن بزبان

فارسی شامل مثل گردد و نقل اقرار بدستخط و مهر صاحب کمشنر بجای اصل در مثل فوجداری داشته شود.

۱۵	ترجمهٔ آن بزبان فارسي	ایضا
۱۶	اصل اقرار مفصلی هرد یال مدعا علیه	ایضا
۱۷	ترجمهٔ آن بزبان فارسی	ایضا
۱۸	زبان بندي فلان گواه اقرار فوجداري	مطابق شرح مضمون نمبر ۱۲ و ۱۳
۱۹	زبان بندي فلان گواه ایضا	ایضا
۲۰	اصل اقرار فوجداري بند رابن مدعا علیه	مطابق شرح مضمون نمبر ۱۴
۲۱	ترجمهٔ آن بزبان فارسي	ایضا
۲۲	اصل اقرار فوجداري هرد یال مدعا علیه	ایضا
۲۳	ترجمهٔ آن بزبان فارسی	ایضا

۲۴ زبان بندي فلان گواه گرفتاری مدعا علیه	مطابق شرح مضمون نمبر ۴ و ۵ و ٦ ....
۲۵ زبان بندی فلان گواه ایضا	ایضا ....
۲٦ زبان بندي فلان گواه برآمد و شناخت مال	ایضا ....
۲۷ زبان بندی فلان گواه ایضا	ایضا ....
۲۸ عذر بند رابن داس مدعا علیه	بعد اتمام زبان بندی گواهان دعوی مدعی عذرات مدعا علیهم اندراج یابد و اقرار مفصل و فوجداری بانها لفظ بلفظ شنوانیده شود و استفسار این معنی هم گردد که آنها بلا خوف و مهربانی اقرار مذکوره نویسانیده بودند یانه و درصورتیکه اسامیان خواهان گرفتن اظهار گواهان نامیده خود شوند گرفته شود
۲۹ عذر هرد یال مدعا علیه	ایضا ....
۳۰ زبان بندی فلان گواه جرح بندرابن مدعا علیه	مطابق شرح مضمون نمبر ۴ و ۵ و ٦ ....

ایضا ....
۳۱ زبان بندی فلان گواه ایضا

ایضا ....
۳۲ زبان بندی فلان گواه جرح هرد یال مدعاعلیه

ایضا ....
۳۳ زبان بندی فلان گواه ایضا

سوال بر مولوی عدالت دعوی خون بر مدعی علیهما بیکی از ان ثابت شد یانه
۳۴ سوال بر مولوی عدالت

بزیر فتوی دستخط و مهر مع لقب خود ....
۳۵ جواب آن .

سوال ثانی بر مدعی علیهما چه سزا لازم می آید ....
۳۶ سوال ثانی

مطابق شرح و مضمون نمبر ۳۵ ....
۳۷ جواب آن

صاحب کمشنر حاکم را که مقتضای رای خود دانند ارقام فرمایند و نیز باتمام آن تاریخ درج نمایند
۳۸ حکم صاحب کمشنر

Note —The marginal notes should in manuscripts be inserted at the outside of the pages for convenience of reference, as the Magrinal Notes are printed in this volume.

کلند ریعنی فهرست اهل جرایمیکه حسب الحکم صاحب مجستریت ضاع فلان برای تجویز صاحب کمشنرد ایرو سایر علاقه قسمت فلان بابت دورفلان سنهٔ فلان سپرده شد

نمبر مقدمه	نمبر اسامی	نام مدعي ومدعا علیه بقید ولایت	خلاصه کیفیت نالش وتاریخ وقوع جرم	تاریخ گرفتار آمدن مدعا علیه	نام گواهان مدعي: گواهان رویت	گواهان گرفتاري مدعا علیه	گواهان صورتحال	گواهان اقرار مفصل	گواهان اقرار فوجداری	گواهان برآمد وشناخت مال	گواهان واقف حال مقدمه	گواهان بابت بدمعاشی	خلاصهٔ تحقیقات مقدمه و وجه تفریص وتاریخ آن	نام گواهان مدعا علیه: گواه جرح	گواهان نیک معاشی
فلان	۱ ۲	مدعي وکیل سرکار بنام بند را بن پسرهرانند هردیال پسر گوبند پرشاد	بعلت قتل عمد واقعه تاریخ فلان	فلان	فلان	فلان	فلان	فلان	فلان	فلان	فلان	فلان	مدعا علیهما ازروی گواهی گواهان وروداد مقدمه بتاریخ فلان بعدالت دایرو سایرتفویض شدند	فلان	فلان

শ্রীযুত নেজামত আদালতের সাহেবদিগের ইঙ্গরেজী ১৮০৯ সালের নবেম্বর মাসের ৪ তারিখের আজ্ঞা-করা ইস্তেহার নামা।

এইক্ষণে জানা গেল যে এ দেশীয় জনেক চাকর সরকারের সেরেস্তার কাগজ পত্র চক্রান্ত করিয়া ফেরফার করণের দাওয়ার জওয়াবে এমত ওজর জানাইল যে এ কর্ম্ম জেলার মেজেষ্ট্রেট্ সাহেবের হুকুমানুসারে হইয়াছে একারণ সরকারের এ দেশীয় যাবন্ত চাকর ও আমলা লোকদিগকে জ্ঞাত ও অবগত করণার্থে ইস্তেহার দেওয়া যাইতেছে যে যদি ঐ সকল আমলা লোকের মধ্যে কোন ব্যক্তি চক্রান্ত করিয়া কিম্বা অন্য কোন ব্যক্তির অপচয়ের জন্যে সরকারের সেরেস্তার কাগজ পত্র জাল কিম্বা ঐ কাগজ পত্রের মজমুনের ফেরফার করে তবে সে ব্যক্তি জাল করণের অপরাধের অপরাধী গণনীয় হইয়া ইঙ্গরেজী ১৮০৭ সালের ২ দ্বিতীয় আইনের নির্ণীত শাস্তির যোগ্য হইবেক ও এমত ওজর যে মুনিবের কিম্বা সেরেস্তার কোন মোক্তারের হুকুমানুসারে কিম্বা অন্য কোন ব্যক্তির কহিত মতে ফেরফার কিম্বা জাল হইয়াছে কোন প্রকারে শুনিবার ও গ্রাহ্য করিবার যোগ্য হইবেক না। ইতি।

आदालत निजामतके साहिबोंका सादिरकिया गय इश्तेहार नामा तारीख ४ माह नवम्बर सन १८०९ इसवी।

जोइदिनोंमें मालुमऊआके इसमुलुकके रहनेवाले एक सहकारी नौकरने जो फरेबसे सरकारके सररिश्तेके कागजों को अदल बदल कियाथा उसदावीके जवाबमें इसतौरसे उजुर कियाके यह हरकतजिलेके मजिसटरट सहिबके ऊकुम बमुजिब अमलमें आइ इसवास्ते इस मुलुकके वहनेवाले सब सरकारी नौकरोंको इतले-आवो खबरकेवास्ते इश्तेहार दिया जाताहै के अगर उन्हमे से कोइ होवे और फरेबकेलेया और किसी दूसरे नुकसानकी नजरसे सरकारी सररिश्तेके कागजोंको जाल बनावेया उसकी बाते-को अदल बदलकरे तो वह आदमी जालसाजीके गुनाहमें गुनह गार समझा जाके १८०७ इसवी की २ आईन की मोकरर की गइ-सजाके लायक होगा और जो वह ऐसा उजुरकरेके वह अदल बदल याजाल साजी मोनीबके ऊकुमया सररिश्तेके किसी मोखने तारके ऊकुम बमुजिबया दूसरे किसी आदमीके कहने से ऐसा किया है तो वह उजुर किसी तरहसे सुना वो कबूल कियान जाएग।

Form for heading Trials in English and Persian, prescribed by Circular Order No. 108, *Part II.*

" COURT OF THE SESSION JUDGE ZILLAH——.

" Trial No. 1 of the sessions for the month of ——, 183.

" Case No. 3 of the magistrate's calendar for the month of——, 183—.

رو بداد تجویز عدالت سیسن ضلع فلان مقام فلان باجلاس فلان صاحب
سیسن جج و رو بروی فلان مولوی عدالت * مقدمه نمبر فلان بابت
سیسن ماه فلان مطابق نمبر فلان کلندره صاحب مجسترت بابت ماه فلان

Form of Certification, prescribed in paragraph 5 *of Circular Order No.* 220, *Part. II. and alluded to in the note to page* 269

منکه صدرامین اعلی (یا صدرامین یا مولوي یا پندت)
عدالت ضلع فلان ام امروز رو بروے من زبان بندي فلان گواه (یا اظهار
مدعي یا مدعي علیه) گرفته شد تحریر فتاریخ فلان سنه فلان
العبـــــــــد

Form of the affirmation enjoined to be taken by Hindoo and Mohamedan deponents by Circular Order No. 44, *Part III.*

مین ایمان سے خداے تعالیٰ کے حضور مین اقرار کرتاهون که اِس
مقدمه مین مین سچ کهونگا بالکل جو جانتاهون سچ کهونگا اور سواے سچ
کے کچهه نہین

مین پرمیشر کے حضور مین اقرار کرتاهون که اِس مقدمه مین مین سچ
کهونگا بالکل جو جانتاهون سچ کهونگا اور سیواے سچ کے کچهه نہین

আমি পরমেস্বরকে প্রত্যক্ষ জানিয়া ধর্ম্মতঃ প্রতিজ্ঞা করিতেছি যে এক্ষণে যাহা কহিব তাহা সত্য ও সম্পূর্ণ সত্য হইবেক এবং সত্য ভিন্ন হইবেক না ইতি ।

(These forms of declaration are also to be used by Darogahs and other Police Officers See No. 117, Part. III.)

Form of the affirmation enjoined to be taken by all Hindoo and Mahomedan deponents by Circular Order No. 48, Part III.

مین ایمان سے خداے تعالیٰ کے حضور مین اقرار کرتاهون که اِس مقدمه
مین مین سچ کهونگا بالکل جو جانتاهون سچ کهونگا اور سیواے سچ کے
کچهه نهین

مین دهرم سے پرمیشر کے حضور مین اقرار کرتا هون که اِس مقدمهمین
مین سچ کهونگا بالکل جو جانتا هون سچ کهونگا اور سیواے سچ کے کچهه نهین

Form of Engagement to be taken from parties who undertake the custody of insane persons referred to in Nos. 61 and 62, Part III.

مین　　　　زمیدار اور نمبردار موضع
پرگنه　　　　ضلع کے هون
چون　　　　دیوانگي کے حالت مین قتل کروانے کے
سبب سے صدر نظامت کے حاکمون کے تجویز سے قید تها اور اب بموجب
میري اِستدعاء کے جو صاحب　　　　رپوت کے ذریعه سے
بیهجا گیا تها حکام مفخرالیهم کے حکم سے میري ضمانت پر رهائي پائي
اِس لئے اقرار کرتا هون اور لکهه دیتا هون که اگر
سے دیوانگي کے حالت مین کوئي حرکت ایسي ظاهر هو که جس سے کسیکو
یا کسیکے جایداد کو کچهه ضرر پهنچے تو مین اور میرے وارث دو سو
روپیه بطور جرمانه کے صاحب مجستریت کے خزانه مین داخل کرینگے اور
جس وقت مجهے یا میرے وارث کو اِس ضمانت سے اپنے برأت منظور
هوگي تو همکو اِختیار حاصل هے که　　　　مذکور کو

صاحب مجسترت کے سپرد کرکے اپنے برأت کرولین ور نه یہي وثیقه
ضمانت برقرار رهیگا اور زمیداري جسکي تفصیل نیچے لکھي هی
مکفول رهیگي فقط

تفصیل

لکھے هوئے تاریخ مہینه سنه

جنوري ——— ۱۸۴ جج یا مجستریت

লিখিতং শ্রী জমিদার ও নম্বরদার মৌজে
পরগনে জেলা জামিননামা পত্রমিদং কার্য্যন-
ঞ্চাগে উনমাদ সময়ে কাটিয়াফেলিবার জন্য সদর
নেজামতের হাকিমানদিগের তজবিজে কয়েদ ছিল আর এই
ক্ষনে আমার প্রার্থনামতে জাহার রিপোর্ট দ্বারায় পাঠান
গিয়াছিল উক্ত হাকিমানদিগের হুকুমানুসারে
আমার জমানতিতে খালাস পাইল অতএব একরার করিতেছি
আর লিখিয়াদিতেছি জদ্যপি মজকুর হইতে
উনমত্ত ভাবে কোন কর্ম্ম যে যাহাতে কেহোকে এবং কাহার
জায়দাদের কোন. নকসান পোঁছে তবে আমী এবং আমার
ওয়ারিস দুই সও টাকা জরিমানা সাহেব মেজিষ্ট্রেটের খাজা-
নাতে দাখিল করিবো ও যে সময় আমাকে কিম্বা আমার
উত্তরাধিকারিকে এই জামিনি হইতে মুক্তহওন প্রয়জন হই-
বেক তখন আমাকে ক্ষমতা আছে যে উক্ত মেজেষ্টর সাহে-
বের নিকট অর্পণ করিয়া মুক্ত হইব নতুবা এই জামিনি
বাহাল থাকিবেক আর জমিদারী যাহার তপশীল নিচে লেখা
আছে বন্ধক থাকিবেক ইতি।

তপশীল।

সন . তারিখ

Translations of forms of Criminal Process prescribed by Circular Order No. 82, Part III.

نمبر ۱ سممس

احکام فوجداري

رامدهن مستري ساکن کلو توله واقعهٔ شهر کلکته کے لئے

از بسکه شیخ رمضو نے ساکن سیالدا چوبیس پرگنه کے علاقه مین تمهارے نام پر زدوکوب کي بابت نالش کي هی لهذا تمکو حکم هی که ۱۵ اپریل سنه ۱۸۴۱ع کو یا اُسکے پیشتر اِس نالش کي جوابدهي کے لئے چوبیس پرگنه کے صاحب مجستریت (یا صدرالصدور یا صدرامین) کے آگے حاضر هو اِس مین تاکید جانو مورخهٔ ۱۲ اپریل سنه ۱۸۴۱ع

مقام مهر

اے بي
مجستریت

نمبر ۲ وارنت یعنے دستک معه ضامني کے

چوبیس پرگنه کي عدالت فوجداري کے ناظر محمد ناظم کے لئے

از بسکه رام پرشاد کهار نے زد وکوب اور مجروح کرنے کي بابت جان برون سیالدا کے ساکن پر نالش کي هی لهذا تمهین حکم هی که جان برون مذکور کو گرفتار کر کر ۲۰ اپریل سنه ۱۸۴۱ع کو یا اُسے پیشتر عدالت مذکوره کے صاحب مجستریت کے حضور حاضر هونیکے لئے پانچسو روپیه کي ضمانت لے لو اور اگر جان برون مذکور ضمانت مزبور نه دے تو تمهین حکم هی که عدالت مذکوره کے صاحب مجستریت کے حضور حاضر کرو اِس مین تاکید جانو مورخهٔ ۴ اپریل سنه ۱۸۴۱ع

مقام مهر

اے بي
مجستریت

نمبر ۳ وارنٹ یعنے دستک

چوبیس پرگنه کي عدالت فوجداري کے ناظر محمد ناظم کے لئے
از بسکه عبدالله گا ڈبہان ساکن کتراپا پر پیربخش ساکن سیالدا کے اظہار سے خون کے جرم کي بابت نالش هوئي هے لهذا تمهین حکم هے که عبدالله گاڈبہان مذکور کو گرفتار کرکر عدالت مذکوره کے صاحب مجسٹریٹ کے حضور اُسے حاضر کرو اِس مین تاکید جانو مورخهٔ
۵ اپریل سنه ۱۸۴۱ع

مقام مهر

اے بي
مجسٹریٹ

نمبر ۴ خانه تلاشي کا پروانه

چوبیس پرگنه کي عدالت فوجداري کے ناظر محمد ناظم کے لئے
از بسکه رام دولعل ساکن مانک توله نے اظہار کرکر اطلاع دي اور نالش کي که اشیاء مندرجهٔ ذیل یعنے برنجي لوٹے ایک سونے کي مالا اور دو تهان لانگ کلاتهه کے میرے گهر سے جو که مانک توله مذکور مین واقع هے چوري گئے اور که میرا شبه هے که اشیاء مذکوره ککور چند ساکن چور باگن واقعهٔ شهر کلکته کے گهر اور احاطه مین چهپي هوئي هین لهذا تمکو حکم هے که تم کمک ضروري لیکر دن کے وقت ککور چند مذکور کے گهر اور احاطه مین داخل هو اور جو مال مسروقه وهان پایا جاے اُسے معه ککور چند مذکور کے اِس عدالت مین حاضر کرو آج کے دن ۶ اپریل سنه ۱۸۴۱ع کو میرے دستخط اور عدالت کي مهر سے دیا گیا

مقام مهر

اے بي
مجسٹریٹ

نمبر ۵ سفینه

شیخ پیر بخش ساکن کلو توله واقعهٔ شهر کلکته کے لئے

ازبسکه شیخ مسکین ساکن سلکیا کے زد و کوب کے مقدمه کي بابت گواهي دینے کے لئے تمهارا حاضر هونا ضرور هی لهذا تمهین لازم هی که تم اصالتا صاحب مجشتریت (یا صدرامین‌اعلی) چوبیس پرگنه کے ضلع کے حضور ۶ اپریل سنه ۱۸۴۱ع کو حاضر هو اِسمین تاکید جانو مورخهٔ ۴ اپریل سنه ۱۸۴۱ع

مقام‌مهر

اے‌بي
مجستریت

نمبر ۶ گواهونکے لئے وارنت یعنے دستک

چوبیس پرگنه کي عدالت فوجداری کے ناظر محمد ناظم کے لئے

ازبسکه زدوکوب کے مقدمه کي بابت شیخ مسکین ساکن سلکیا کي طرف سے گواهي دینے کے واسطے شیخ پیر بخش ساکن کلو توله واقعهٔ شهر کلکته کے نام پر ماه اپریل کے چوتهي تاریخ سنه ۱۸۴۱ع کو سفینه جاري هوا اورکه شیخ رمضو پیاده کے اظهار سے جسنے که سفینه مذکور کے دستور کے موافق جاري هونیکي بابت بهي اظهار دیا هی واضح هی که شیخ پیر بخش مذکور کو اپنے خرچ اخراجات کے لئے پانچ روپیه دینے کا اقرار کیا هی اورکه شیخ پیر بخش مذکور نے سفینه مذکور کے موافق حاضر هونےمین اِنکار اور تغافل کیا لهذا تمکو حکم هی که شیخ پیر بخش مذکور کو گرفتار کر کے عدالت مذکوره کے صاحب مجستریت کے حضور حاضر کرو اِسمین تاکید جانو مورخهٔ ۷ اپریل سنه ۱۸۴۱ع

مقام‌مهر

اے‌بي
مجستریت

نمبر ۷ جس اسامي پر فوجداري کے جرم کي بابت نالش هی اُسکے
حاضر هؤنیکے لئے اِشتہار

ضلع چوبیس پرگنه کی فوجداري عدالت کا اِشتہار

از بسکه رام دهن ساکن سیالدا پر ڈکیتی کی علت مین رمضو ساکن سیالدا نے نالش کی هی اورکه ایک وارنٹ ۷ اپریل کو اُسکی گرفتاریکے لئے جوابدهی کے واسطے جاری هوا تها اورکه محمد ناظم ناظرکي رپوٹ مورخۂ ۱۴ اپریل سنه ۱۸۴۱ع سے واضح هی که رامدهن مذکور روپوش هوگیا هی جس سبب سے وارنٹ مذکور اُس پرجاري نہین هو سکتا لہذا قانون نوین کی دفعۂ چوتهی سنه ۱۸۹۵ع کے بموجب اشتہار دیا جاتا هی که اگر رام دهن مذکور پندرهوین مئی سنه الیه کو یا اُس سے پیشتر جوابدهی کے لئے حاضر نہوگا تو جمیع سزاؤن مندرجۂ قانون مذکور کا سزاوار هؤگا مورخۂ ۱۴ اپریل سنه ۱۸۴۱ع

مقام مہر

اے بي
مجستریٹ

نمبر ۸ گواهون کا میچلکا

از بسکه شیخ جانو ساکن سلکیا نے پیرو ساکن سیالدا پر زد وکوب کي نالش کی هی اور مدعی (یا مدعلیه) نے مجھے گواه تهہرایا هی لہذا یہه میچلکا لکهه دیتا هون که ۱۲ اپریل سنه ۱۸۴۱ع کو یا اُس سے پیشتر گواهی دینے کے لئے ضلع چوبیس پرگنه کے صاحب مجستریٹ کے حضور حاضر هوؤنگا اورکه امر مذکور مین اگرکچهه قصور کرون تو جوکچهه جرمانه که صاحب مجستریٹ تجویزکر کے فرماوین اور اُسکے علاوه جو صرف که میري غیر حاضري کے سبب سے واقعه هو سرکار مین اداکرونگا اِسمین عذر و حیله نکرونگا

مورخۂ ۷ اپریل سنه ۱۸۴۱ع

العبد

العبد ———————— ل

شیخ رمضان ساکن دهرم توله واقع شهر کلکته

نمبر ۹ اسامی کے حاضر هونے کی حاضر ضامنی

از بسکه سیفو ساکن سیالدا پر زدوکوب کا اتہام در پیش هی اور اُسکی جوابدهی کے لئے ۵ سنه ۱۸۴۱ع کو یا اُسسے پیشتر ضلع چوبیس پرگنه کے صاحب مجستریت کے حضور اُسسے حاضر هونیکا حکم هی تو مین اِقرار کرتا هون که سیفو مذکور تاریخ مزبور صاحب مجستریت موصوف کے حضور حاضر کرونگا اور جب تک که حکم قطعی اتہام مذکورکی بابت صاحب مجستریت کے حضور سے نافذ نہوگا اُسکے حاضر کرنیکا ذمه دار هون اور اگر اُسسے حاضر نکرون تو سو روپیه سرکار مین جرمانه دون اور لیچهه اُسمین عذر و حیله نکرون مورخهٔ ۵ مارچ سنه ۱۸۴۱ع

العبد ——— ل

پیربخش

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১ নম্বর। সমন।

ফৌজদারী হুকুম।

কলিকাতা সহরের কলুটোলা নিবাসি রামধন্ মিস্ত্রী প্রতি আগে।

চব্বিশ পরগনার শিয়ালদহ নিবাসি সেখ রম্‌জু মারপিটের বাবতে তোমার নামে প্রতিজ্ঞা পূর্ব্বক নালিশ করিয়াছে অতএব ইহার দ্বারা তোমার প্রতি হুকুম হইতেছে যে ১৮৪১ সালের আপ্রিল মাসের ১৫ তারিখে বা তাহার পূর্ব্বে জিলা চব্বিশ পরগনার মাজিস্ত্রেটের অথবা প্রধান শদর আমীন কিম্বা শদর আমীনের সম্মুখে হাজির হইয়া ঐ নালিশের জওয়াব দিবা ইহাতে গাফিলি করিবা না ইতি। ১৮৪১ সাল তারিখ ২ আপ্রিল।

মোহরের স্থান

অমুক মাজিষ্ট্রেট।

২ নম্বর। ওয়ারণ্ট অর্থাৎ দস্তক ও জামিনি।

চব্বিশ পরগনার ফৌজদারি আদালতের নাজির শ্রীমহম্মদ নাজিম বরাবরেষু।

শিয়ালদহ নিবাসি জান ব্রৌনের নামে রামপ্রসাদ বেহারা প্রতিজ্ঞাপূর্ব্বক মারিপিট এবং দারুন আঘাতের বিষয়ে নালিশ করিয়াছে অতএব ইহার দ্বারা তোমার প্রতি হুকুম হইতেছে যে উক্ত জান ব্রৌনকে গ্রেপ্তার করিবা এবং ১৮৪১ সালের ২০ আপ্রিল তারিখে কিম্বা তাহার পূর্ব্বে উক্ত আদালতের মাজিষ্ট্রেট সাহেবের সম্মুখে হাজির হইবার নিমিত্তে তাহার স্থানে পাঁচ শত টাকার জামিন লইবা। এবং যদি ঐ জান ব্রৌন উপরের লিখিত জামিন না দেয় তবে উক্ত মাজিষ্ট্রেট সাহেবের সম্মুখে তাহাকে আনাইতে তোমার প্রতি হুকুম হইল। ইহাতে কসুর করিবা না ইতি ১৮৪১ সাল তারিখ ৪ আপ্রিল।

মোহরের স্থান — অমুক মাজিষ্ট্রেট।

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৩ নম্বর। ওয়ারণ্ট অর্থাৎ দস্তক।

চব্বিশ পরগনার ফৌজদারি আদালতের নাজির শ্রীমহম্মদ নাজিম বরাবরেষু।

সালিখা নিবাসি পীরবক্স প্রতিজ্ঞাপূর্ব্বক কড়ায়া নিবাসি আবদুল্লা গাড়য়ানের নামে খুনের অপরাধে নালিশ করিয়াছে অতএব ইহার দ্বারা তোমার প্রতি হুকুম হইতেছে যে ঐ আবদুল্লা গাড়ওয়ানকে গ্রেপ্তার করিয়া উক্ত আদালতের মাজি-

ষ্ট্রেট সাহেবের সম্মুখে তাহাকে আনাইবা ইহাতে কিছুগাফিলি করিবা না ইতি। ১৮৪১ সাল তারিখ ৫ আপ্রিল।

মোহরের স্থান

অমুক মাজিষ্ট্রেট।

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৪ নম্বর। খানাতালাশীর পরওয়ানা।

চব্বিশ পরগনার ফৌজদারি আদালতের নাজির শ্রীমহম্মদ নাজিম বরাবরেষু।

মানিকতলা নিবাসি রামদুলাল প্রতিজ্ঞাপূর্ব্বক এই এজহার ও নালিশ করিয়াছে যে নীচের লিখিত বিষয় অর্থাৎ পিতলের লোটা ও একছড়া সোনার হার এবং দুই থান লাঙ্গক্লাথ পূর্ব্বোক্ত মানিকতলায় তাহার বাটী হইতে চুরি হইয়াছে। এবং উক্ত জিনিস কলিকাতা শহরের চোরবাগান নিবাসি ককুরচাঁদ মঘের ঘর ও বাটীর মধ্যে লুক্কাইত আছে এমত তাহার সোবে হয়। অতএব ইহার দ্বারা তোমাকে ক্ষমতা দেওয়া যাইতেছে এবং তোমার প্রতি হুকুম হইতেছে যে আবশ্যক ও উপযুক্ত সহায় লইয়া দিবাভাগে ঐ ককুরচাঁদ মঘের ঘর ও বাটীতে প্রবেশ করিবা এবং যদি উক্ত জিনিস সেখানে পাওয়া জায় তবে তুমি ঐ প্রাপ্ত জিনিস এবং ঐ ককুরচাঁদ মঘকে এই আদালতের সম্মখে আনিবা ইতি। আমার দস্তখত ও এই আদালতের মোহর ১৮৪১ সালের ৬ আপ্রিল তারিখে করাগেল।

মোহরের স্থান

অমুক মাজিষ্ট্রেট।

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৫ নম্বর। সফিনা।

কলিকাতা শহরের কলুটোলা নিবাসি সেখ পীরবক্স প্রতিআগে মারিপিটের নালিশে সালিখা নিবাসি সেখ মিস্কিনের তরফে সাক্ষ্যদিবার নিমিত্তে তোমার হাজির হওনের আবশ্যক আছে অতএব তোমার প্রতি হুকুম হইতেছে যে ১৮৪১ সালের ৬ আপ্রিল তারিখে জেলা চব্বিশ পরগনার মাজিষ্ট্রেট সাহেবের (অথবা প্রধান সদর আমিনের) সম্মুখে হাজির হইবা ইহাতে কিছু গাফিলি করিবা না ইতি। ১৮৪১ সাল তারিখ ২ আপ্রিল।

মোহরের	অমুক
স্থান	মাজিষ্ট্রেট।

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৬ নম্বর। সাক্ষির বিষয়ি ওয়ারণ্ট অর্থাৎ দস্তক।

চব্বিশ পরগনার ফৌজদারি আদালতের নাজির শ্রীমহম্মদ নাজিম বরাবরেষু।

মারিপীটের নালিশে সালিখা নিবাসি সেখ মিস্কিনের তরফে সাক্ষ্যদিবার নিমিত্ত ১৮৪১ সালের ৪ আপ্রিল তারিখে কলিকাতা সহরের কলুটোলা নিবাসি সেখ পিরবকসের নামে রিত মতে সফিনা হইয়াছিল। এবং সেখ রমজু পেয়াদার কথাক্রমে বোধ হইতেছে যে ঐ সেখ পিরবকসকে আপনার খরচার নিমিত্ত পাঁচ টাকা দিতে প্রস্তার হইয়াছিল এবং ঐ সেখ রমজু পেয়াদা ঐ সফিনা রিতি মত জারি করিয়া ছিল এমত কহে। কিন্তু ঐ পিরবকস সফিনার হুকুম মতে হাজির হইতে ত্রুটী এবং অস্বীকার করিয়াছে অতএব ইহার দ্বারা তোমার প্রতি হুকুম হইতেছে যে ঐ সেখ পিরবকসকে গ্রেপ্তার

করিয়া উক্ত আদালতের মাজিষ্ট্রেট সাহেবের সম্মুখে হাজির করাইবা ইহাতে গাফিলি করিবা না ইতি। ১৮৪১ সাল তারিখ ৭ আপ্রিল।

মোহরের অমুক

স্থান মাজিষ্ট্রেট।

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৭ নম্বর। ফৌজদারি অপরাধে আসামীর হাজির হইবার ইস্তেহার।

জেলা চব্বিশ পরগনার ফৌজদারি আদালতের ইস্তেহার শিয়ালদহ নিবাসি রমজু প্রতিজ্ঞা পূর্ব্বক শিয়ালদহ নিবাসি রামধনের নামে ডাকাইতি অপরাধে নালিশ করিয়াছে এবং ঐ নালিশের জওয়াব দিবার নিমিত্ত তাহাকে গ্রেপ্তার করণের এক ওয়ারণ্ট গত ৭ আপ্রিল তারিখে জারি হইয়াছিল এবং ১৮৪১ সালের ১২ আপ্রিল তারিখের শ্রীমহম্মদ নাজিম নাজিরের রিপোর্টের দ্বারা দৃষ্টি হইতেছে যে ঐ রামধন পলাইয়াছে অথবা আপনাকে লুকাইয়াছে এবং ঐ হুকুম তাহার উপর জারি হইতে পারেনাই অতএব ১৭৯৬ সালের ১১ আইনের ৪ ধারাক্রমে ইস্তেহার দেওয়া জাইতেছে যে ঐ রামধন যদি ঐ নালিশের জওয়াব দিবার নিমিত্ত ১৮৪১ সালের ১৫ মে তারিখে কি তাহার পূর্ব্বে হাজির না হয় তবে ঐ আইনের লিখিত দণ্ডের যোগ্য হইবেক ইতি। ১৮৪১ সাল তারিখ ১৪ আপ্রিল।

মোহরের অমুক

স্থান মাজিষ্ট্রেট।

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৮ নম্বর। সাক্ষির মুচলকা।

সালিখা নিবাসি সেখ জানু শিয়ালদহ নিবাসি পীরুর নামে মারিপিটের বিষয়ে নালিশ করিয়াছে এবং ফরিয়াদি অথবা আসামী আমাকে সাক্ষি মানিয়াছে অতএব এই মুচলকা লিখিয়া দিতেছে যে সাক্ষ্যদিবার নিমিত্ত ১৮৪১ সালের ১২ আপ্রিল তারিখে কিম্বা তাহার পূর্ব্বে চব্বিশ পরগনা জিলার মাজিষ্ট্রেট সাহেবের সম্মুখে হাজির হইব যদি আমি ইহাতে কিছু কসুর করি তবে মাজিষ্ট্রেট সাহেব যে জরিমানা সরকারে দিতে আমার প্রতি হুকুম করিতে উচিত বোধ করেন তাহা এবং আমার হাজির না হওয়াতে ও আমাকে হাজির করাইতে যে খরচা লাগে তাহার নিসা করিব এমত অঙ্গীকার করি ইহাতে কিছু গাফিলি করিব না ইতি। ১৮৪১ সাল তারিখ ৭ আপ্রিল।

(স্বাক্ষ্যরিত) সেখরমজান।

কালকাতার ধর্ম্মতলা নিবাসি।

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৯ নম্বর। আসামীর হাজির করিবার নিমিত্ত হাজির জামিন।

শিয়ালদহ নিবাসি সৈফুর নামে মারিপিটের নালিশ হইয়াছে এবং ঐ নালিশের জওয়াব দিবার নিমিত্ত ১৮৪১ সালের ৫ আপ্রিল তারিখে বা তাহার পূর্ব্বে জিলা চব্বিস পরগনার মাজিষ্ট্রেট সাহেবের সম্মুখে তাহাকে হাজির হইবার হুকুম হইয়াছে অতএব আমি স্বেচ্ছা পূর্ব্বক একরার করিতেছি যে উক্ত তারিখে ঐ মাজিষ্ট্রেট সাহেবের সম্মুখে উক্ত সৈফুকে

হাজর করাইব এবং উক্ত নালিশে মাজিস্ট্রেট সাহেবের চূড়ান্ত হুকুম না হওয়া পর্য্যন্ত তাহাকে হাজির করাওনের দায়ি হইব জদ্যপি ইহাতে গরহাজির হয় তবে সরকারে এক শত টাকা জরিমানা আদায় করিব ইহাতে কিছু কসুর করিবনা ইতি। ১৮৪১ সাল তারিখ ৫ মার্চ।

পীরবসক।

مین که   ولد   کوتھي *   ساکن   کاهون
جو پیشگاه صاحب جج عدالت دیوانی ضلع   سے بابت
خزانه متعلقهٔ عدالت مذکوره کے اس محکمے کے خزانچي سے بتعداد
روپئے کے تصرف ضامنی مطلوب هی اس واسطے مین برضا
اور رغبت مسمی   کا که فی الحال بعهده خزانچي گري محکمهٔ
مذکوره کے مقرر هی متکفل هوتا هون اس اقرار سے که جب کبهي
منجمله روپیه بالوت و غیره نقد اور جنس معوله خزانچي مذکور کے از
روی حساب کے کچهه باقي سرکار کي ذمه مشار الیه کے نکلے تو مین
ضامن بلا عذر اور حجت زرد مکي خزانچي مذکور کو اپنے پاس سے ادا
ادا کرون اور جایداد مصرحهٔ ذیل کو که مالیتي
روپیه کي بلا خلش از ان خاص مجهه ضامن کي هی
بطریق نشان ضمانت کے مکفول کرتا هون اور مین یهه وثیقه بطور
تصرف ضامني کے لکهه دیتا هون که عندالحاجت کام آوے
المرقوم

৮ নম্বর। সাক্ষির মুচলকা।

সালিখা নিবাসি সেখ জানু শিয়ালদহ নিবাসি পীরুর নামে মারিপিটের বিষয়ে নালিশ করিয়াছে এবং ফরিয়াদি অথবা আসামী আমাকে সাক্ষি মানিয়াছে অতএব এই মুচলকা লিখিয়া দিতেছে যে সাক্ষ্যদিবার নিমিত্ত ১৮৪১ সালের ১২ আপ্রিল তারিখে কিম্বা তাহার পূর্ব্বে চর্ব্বিশ পরগনা জিলার মাজিষ্ট্রেট সাহেবের সম্মুখে হাজির হইব যদি আমি ইহাতে কিছু কসুর করি তবে মাজিষ্ট্রেট সাহেব যে জরিমানা সরকারে দিতে আমার প্রতি হুকুম করিতে উচিত বোধ করেন তাহা এবং আমার হাজির না হওয়াতে ও আমাকে হাজির করাইতে যে খরচা লাগে তাহার নিসা করিব এমত অঙ্গীকার করি ইহাতে কিছু গাফিলি করিব না ইতি। ১৮৪১ সাল তারিখ ৭ আপ্রিল।

(স্বাক্ষ্যরিত) সেখরমজান।
কলিকাতার ধর্ম্মতলা নিবাসি।

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৯ নম্বর। আসামীর হাজির করিবার নিমিত্ত হাজির জামিন

শিয়ালদহ নিবাসি সৈফুর নামে মারিপিটের নালিশ হইয়াছে এবং ঐ নালিশের জওয়াব দিবার নিমিত্ত ১৮৪১ সালের ৫ আপ্রিল তারিখে বা তাহার পূর্ব্বে জিলা চর্ব্বিস পরগনার মাজিষ্ট্রেট সাহেবের সম্মুখে তাহাকে হাজির হইবার হুকুম হইয়াছে অতএব আমি স্বেচ্ছা পূর্ব্বক একরার করিতেছি যে উক্ত তারিখে ঐ মাজিষ্ট্রেট সাহেবের সম্মুখে উক্ত সৈফুকে

হাজির করাইব এবং উক্ত নালিশে মাজিষ্ট্রেট সাহেবের চু-ড়ান্ত হুকুম না হওয়া পর্য্যন্ত তাহাকে হাজির করাওনের দায়ি হইব জদ্যপি ইহাতে গরহাজির হয় তবে সরকারে এক শত টাকা জরিমানা আদায় করিব ইহাতে কিছু কসুর করিবনা ইতি। ১৮৪১ সাল তারিখ ৫ মার্চ।

পীরবকস।

Form of Security Bond prescribed by Circular Order No. 189 *Part* III *and alluded to in the note to page* 432.

میں که   ولد   کوٹھی   ساکن   کاهون
جو پیشگاه صاحب جج عدالت دیواني ضلع   سے بابت
خزانه متعلقۂ عدالت مذکوره کے اس محکمے کے خزانچي سے بتعداد
            روپئے کے تصرف ضامني مطلوب هی اس واسطے میں برضا
اور رغبت مسمی   کا که فی الحال بعهده خزانچي گري محکمۂ
مذکوره کے مقرر هی متکفل هوتا هون اس اقرار سے که جب کبهي
منجمله روپیه بالوت و غیره نقد اور جنس محوله خزانچي مذکور کے از
روی حساب کے کچهه باقي سرکار کي ذمه مشار الیه کے نکلے تو میں
ضامن بلا عذر اور حجت زر ذمگي خزانچي مذکور کو اپنے پاس سے ادا
کرون اور جایداد مصرحۂ ذیل کو که مالیتي
            روپیه کي بلا خلش از آن خاص مجهه ضامن کي هی
بطریق نشان ضمانت کے مکفول کرتا هون اور میں یهه وثیقه بطور
تصرف ضامني کے لکهه دیتا هون که عندالحاجت کام آوے

المرقوم

N. B. As no authentic copies of the translations of the Proclamation appended to Circular Order No. 195, Part I, could be obtained they have not been inserted in this Appendix.

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TO

THE THREE PARTS.

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To matters connected with Jails, Insane Hospitals and their inmates, &c.

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ADDENDA AND ERRATA.

Page.

15. Line 6. For 1806 read 1796, and insert at as a note. "See Nos. 3 and 8.
29. The note applies to the Circular generally and not to the first paragraph.
30. The note to this page the same.
39. To the first paragraph of Circular No. 85, insert as a note. "For the Memorandum Books now in use, See No. 144, Part III."
47. Line 5 del. the comma after "commission."
55. Line 6 from the bottom for "favourable" read "unfavourable."
56. In note † for "105" read "115."
63. Del. note * "see No. 6."
72. In the note for "Act I" read "Act V."
80. Dele note † at the bottom.
82 Insert as a note to paragraph 4, "See Section 2, Act XXI of 1841."
88. To paragraph 4 of Circular No. 191, insert as a note. "See Section 2, Act XXI of 1841."
111. To note * after "No." insert "184."
115. In note * for "the first attempt," read "one of the first attempts."
119. Line 14 from the bottom instead of a comma there should be a full stop after "exertion."
131. To the note † at the bottom should have been added—"It should also be certified that no accident, error, or misadventure occurred. See No. 99, Part III.
152. To the note add "Part III."
153. To note * add "Part III."
184. In note (*b*) for "in" read "on."
196. Line 14 from the bottom, instead of a semicolon there should a comma after "extracts."
213. Line 13 from the bottom, for "*perwaneys*" read "*perwanehs.*"
234. Line 7 del. "respecting."
245. Line 1 for "o reply" read "the reply."
275. Line 15 after "May last" insert as a note, "See *ante* page 260."
321 In note † for "613" read "623."
345. In note † for "attended" read "alluded."
356. The date to Circular No. 19 should be 1840 instead of 1842.
—— In note * for "This Circulars" read "This Circular."
429. In the note at the bottom of the page for "207" read "397."
434. The date to Circular No. 192 should be "1845" instead of "1844."

APPENDIX.

Page I. Line 17 for "applications become" read "application becomes."

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3. Head "Arrest." In the last column for the page insert 389.
7. Head "Commissioners" for "1st April" read "8th April."